

112th Congress }  
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# COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2009

VOLUME III  
SOUTH AND CENTRAL ASIA,  
WESTERN HEMISPHERE

R E P O R T

SUBMITTED TO THE

COMMITTEE ON FOREIGN RELATIONS  
US SENATE

AND THE

COMMITTEE ON FOREIGN AFFAIRS  
US HOUSE OF REPRESENTATIVES

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE  
FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED



OCTOBER 2012

Printed for the use of the Committees on Foreign Relations of the U.S.  
Senate and Foreign Affairs of the U.S. House of Representatives respec-  
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**One Hundred Tenth Congress, Second Session**

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## LETTER OF TRANSMITTAL

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DEPARTMENT OF STATE,  
*Washington, DC, April 10, 2010.*

Hon. John F. Kerry,  
*Chairman, Committee on Foreign Relations.*

DEAR MR. CHAIRMAN: On behalf of the Secretary of State, I am transmitting to you the *Country Reports on Human Rights Practices for 2009*, prepared in compliance with sections 116(d)(1) and 502B(b) of the Foreign Assistance Act of 1961, as amended, and section 505(c) of the Trade Act of 1974, as amended.

We hope this report is helpful. Please let us know if we can provide any further information.

Sincerely,

DAVID J. KRAMER,  
*Assistant Secretary, Bureau of Democracy,  
Human Rights, and Labor.*

Enclosure.



## PREFACE

---

The idea of human rights begins with a fundamental commitment to the dignity that is the birthright of every man, woman and child. Progress in advancing human rights begins with the facts. And for the last 34 years, the United States has produced the Country Reports on Human Rights Practices, providing the most comprehensive record available of the condition of human rights around the world.

These reports are an essential tool for activists who courageously struggle to protect rights in communities around the world; for journalists and scholars who document rights violations and who report on the work of those who champion the vulnerable; and for governments, including our own, as they work to craft strategies to encourage protection of the human rights of more individuals in more places.

The principle that each person possesses equal moral value is a simple, self-evident truth; but securing a world in which all can exercise the rights that are naturally theirs is an immense practical challenge. To craft effective human rights policy, we need good assessments of the situation on the ground in the places we want to make a difference. We need a sophisticated, strategic understanding of how democratic governance and economic development can each contribute to creating an environment in which human rights are secured. We need to recognize that rights-protecting democracy and rights-respecting development reinforce each other. And we need the right tools and the right partners to implement our policies.

Human rights are timeless, but our efforts to protect them must be grounded in the here-and-now. We find ourselves in a moment when an increasing number of governments are imposing new and crippling restrictions on the nongovernmental organizations working to protect rights and enhance accountability. New technologies have proven useful both to oppressors and to those who struggle to expose the failures and cowardice of those oppressors. And global challenges of our time—like food security and climate change; pandemic disease; economic crises; and violent extremism—impact the enjoyment of human rights today, and shape the global political context in which we must advance human rights over the long term.

Human rights are universal, but their experience is local. This is why we are committed to hold everyone to the same standard, including ourselves. And this is why we remember that human rights begin, as Eleanor Roosevelt said, “in small places close to home.” When we work to secure human rights, we are working to

protect the experiences that make life meaningful, to preserve each person's ability to fulfill his or her God-given potential. The potential within every person to learn, discover and embrace the world around them; the potential to join freely with others to shape their communities and their societies so that every person can find fulfillment and self-sufficiency; the potential to share life's beauties and tragedies, laughter and tears with the people they love.

The reports released today are a record of where we are. They provide a fact-base that will inform the United States's diplomatic, economic and strategic policies toward other countries in the coming year. These reports are not intended to prescribe such policies, but they provide essential data points for everyone in the U.S. Government working on them. I view these reports not as ends in themselves, but as an important tool in the development of practical and effective human rights strategy by the United States Government. That is a process to which I am deeply committed.

The timeless principles enshrined in the Universal Declaration of Human Rights are a North Star guiding us toward the world we want to inhabit: a just world where, as President Obama has put it, peace rests on the "inherent rights and dignity of every individual." With the facts in hand, and the goals clear in our hearts and heads, we recommit ourselves to continue the hard work of making human rights a human reality.

HILLARY RODHAM CLINTON,  
*Secretary of State.*

## OVERVIEW AND ACKNOWLEDGMENTS

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### WHY THE REPORTS ARE PREPARED

This report is submitted to the Congress by the Department of State in compliance with Sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (FAA), as amended. The law provides that the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate by February 25 "a full and complete report regarding the status of internationally recognized human rights, within the meaning of subsection (A) in countries that receive assistance under this part, and (B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act." We have also included reports on several countries that do not fall into the categories established by these statutes and thus are not covered by the congressional requirement.

In the early 1970s the United States formalized its responsibility to speak out on behalf of international human rights standards. In 1976 Congress enacted legislation creating a Coordinator of Human Rights in the Department of State, a position later upgraded to Assistant Secretary. Legislation also requires that U.S. foreign and trade policy take into account countries' human rights and worker rights performance and that country reports be submitted to the Congress on an annual basis.

### HOW THE REPORTS ARE PREPARED

The Department of State prepared this report using information from U.S. embassies and consulates abroad, foreign government officials, nongovernmental and international organizations, and published reports. The initial drafts of the individual country reports were prepared by U.S. diplomatic missions abroad, drawing on information they gathered throughout the year from a variety of sources, including government officials, jurists, the armed forces, journalists, human rights monitors, academics, and labor activists. This information gathering can be hazardous, and U.S. Foreign Service personnel regularly go to great lengths, under trying and sometimes dangerous conditions, to investigate reports of human rights abuse, monitor elections, and come to the aid of individuals at risk, such as political dissidents and human rights defenders whose rights are threatened by their governments.

Once the initial drafts of the individual country reports were completed, the Bureau of Democracy, Human Rights and Labor, in cooperation with other Department of State offices, worked to cor-

roborate, analyze, and edit the reports, drawing on their own sources of information. These sources included reports provided by U.S. and other human rights groups, foreign government officials, representatives from the United Nations and other international and regional organizations and institutions, experts from academia, and the media. Bureau officers also consulted experts on worker rights, refugee issues, military and police topics, women's issues, and legal matters. The guiding principle was to ensure that all information was assessed objectively, thoroughly, and fairly.

The reports in this volume will be used as a resource for shaping policy, conducting diplomacy, and making assistance, training, and other resource allocations. They also will serve as a basis for the U.S. Government's cooperation with private groups to promote the observance of internationally recognized human rights.

The Country Reports on Human Rights Practices cover internationally recognized civil, political and worker rights, as set forth in the Universal Declaration of Human Rights. These rights include freedom from torture or other cruel, inhuman or degrading treatment or punishment, from prolonged detention without charges, from disappearance or clandestine detention, and from other flagrant violations of the right to life, liberty and the security of the person.

Universal human rights seek to incorporate respect for human dignity into the processes of government and law. All persons have the right to nationality, the inalienable right to change their government by peaceful means and to enjoy basic freedoms, such as freedom of expression, association, assembly, movement, and religion, without discrimination on the basis of race, religion, national origin, or sex. The right to join a free trade union is a necessary condition of a free society and economy. Thus the reports assess key internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, the prohibition of forced or compulsory labor, the status of child labor practices, the minimum age for employment of children, and acceptable work conditions.

Within the Bureau of Democracy, Human Rights and Labor, the editorial staff of the Country Reports Team consists of: Editor in Chief Stephen Eisenbraun; Office Directors: Carlos Garcia, Douglas Kramer, and Kay Mayfield; Senior Editors: Jonathan Bemis, Douglas B. Dearborn, Daniel Dolan, Jerome L. Hoganson, Patricia Meeks Schnell, Julie Turner, and Rachel Waldstein; Editors: Naim Ahmed, Joseph Barghout, Kate Berglund, Sarah Beringer, Marissa Brescia, Sarah Buckley-Moore, Liliana Caparo Ariza, Laura Carey, Elise Carlson-Rainer, Delaram Cavey, Sharon Cooke, Susan Corke, Stuart Crampton, Kathleen Crowley, Frank Crump, Tu Dang, Mollie Davis, Huseyin Dogan, Will Dokurno, Mort Dworken, Amy Feagles, Joan Garner, Solange Garvey, Jeffrey Glassman, Blake Greene, Edward Grulich, Patrick Harvey, Victor Huser, Jill Hutchings, Stan Ifshin, David T. Jones, Simone Joseph, Mancharee Junk, Douglas Kramer, Sarah Labowitz, Jessica Lieberman, Gregory Maggio, Stacey May, John McKane, David Mikosz, Mia Mitchell, Stephen Moody, Sarah Morgan, Perlita Muiruri, Sandra Murphy, Daniel L. Nadel, Catherine Newling, Anand Prakash, Drue Preissman, Gabriela Ramirez, Lea Rivera, Peter Sawchyn, Wendy

Silverman, Catherine Snyder, Erin Spitzer, Rachel Spring, Michael Suttles, Leslie Taylor, James Todd, Kathy Unlu, David Wagner, Nicole Wilett, Karen Yoo; Contributing Editor: Lynne Davidson; Editorial Assistants: Cory Andrews, Carol Finerty, Ronya D. Foy, Lauren Gandillot, Yelipza Gutierrez, Wen Hsu, Raymond Lu, Stephanie Martone, James McDonald, Matthew Miller, Amanda Pourciau, Sabrina Ragaller, and Helaena White; and Technical Assistant Eunice Johnson.





## INTRODUCTION TO THE 2009 COUNTRY REPORTS

---

2009 was a year of contrasts. It was a year in which ethnic, racial, and religious tensions led to violent conflicts and serious human rights violations and fueled or exacerbated more than 30 wars or internal armed conflicts. At the same time, it was a year in which the United States and other governments devoted greater attention to finding ways to acknowledge and combat these underlying tensions through showing leadership in advancing respect for universal human rights, promoting tolerance, combating violent extremism, and pursuing peaceful solutions to long-standing conflicts in the Middle East and elsewhere. As President Obama said in his June speech at Cairo University, we should be defined not by our differences but rather by our common humanity, and we should find ways to work in partnership with other nations so that all people achieve justice and prosperity.

2009 also was a year in which more people gained greater access than ever before to more information about human rights through the Internet, cell phones, and other forms of connective technologies. Yet at the same time it was a year in which governments spent more time, money, and attention finding regulatory and technical means to curtail freedom of expression on the Internet and the flow of critical information and to infringe on the personal privacy rights of those who used these rapidly evolving technologies.

Today, all governments grapple with the difficult questions of what are appropriate policies and practices in response to legitimate national security concerns and how to strike the balance between respecting human rights and fundamental freedoms and ensuring the safety of their citizens. That said, during the past year, many governments applied overly broad interpretations of terrorism and emergency powers as a basis for limiting the rights of detainees and curtailing other basic human rights and humanitarian law protections. They did so even as the international community continued to make tangible progress in isolating and weakening the leadership in violent extremist and terrorist groups such as al-Qa'ida.

This report explores these and other trends and developments and provides a specific, detailed picture of human rights conditions in 194 countries around the world. The U.S. Government has compiled these reports for the past 34 years pursuant to a requirement placed on the U.S. executive by law in part to help the U.S. Congress inform its work in assessing requests for U.S. foreign military and economic assistance, as well as to set trade policies and U.S. participation in the multilateral development banks and other fi-

nancial institutions. The reason for publishing this report is to develop a full, factual record that can help U.S. policymakers to make intelligent and well-informed policy decisions. It has also been increasingly used by policymakers abroad and has become a core reference document for governments, intergovernmental organizations, and concerned citizens throughout the world.

Many have questioned the reason the U.S. Government compiles this report, rather than the United Nations or some other intergovernmental body. One answer is that we believe it is imperative for countries, including our own, to ensure that respect for human rights is an integral component of foreign policy. These reports provide an overview of the human rights situation around the world as a means to raise awareness about human rights conditions, in particular as these conditions impact the well-being of women, children, racial minorities, trafficking victims, members of indigenous groups and ethnic communities, persons with disabilities, sexual minorities, and members of other vulnerable groups. Also, we provide these reports as a form of comprehensive review and analysis. While some nongovernmental organizations (NGOs) do extensive and excellent reporting on some countries, none cover the world as we do. And while we have encouraged more detailed and comprehensive reporting from the UN and other intergovernmental bodies, thus far these organizations have not met this need. Because of this unmet need, the U.S. Congress has mandated this report. Even as we continue this reporting exercise, we encourage the UN to take up this type of thorough and comprehensive reporting, and we stand ready to work with them to meet the challenge. We will continue to press for enhanced UN reporting, for example through the UN Human Rights Council as part of its review of its own operations in 2011.

Some critics, in the United States and elsewhere, also have challenged our practice of reviewing every other country's human rights record but not our own. In fact, the U.S. Government reports on and assesses our own human rights record in many other fora pursuant to our treaty obligations (e.g., we file reports on our implementation of the two Optional Protocols to the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, the International Covenant on the Elimination of Racial Discrimination, and the Convention Against Torture). We are reviewing our reporting, consistent with President Obama and Secretary Clinton's pledge that we will apply a single universal human rights standard to all, including ourselves. Later this year, the U.S. Trafficking in Persons Report, for the first time, will rank the United States as it does foreign governments by applying the minimum standards for the elimination of trafficking in persons set forth in the Trafficking Victims Protection Act of 2000 as amended. And in the fall the U.S. Government will appear before the United Nations Human Rights Council for the first Universal Periodic Review of our domestic human rights situation.

These country reports are written to provide an accurate, factual record of human rights conditions around the world, not to examine U.S. policy responses or options or to assess diplomatic alternatives. Yet in a broader sense these reports are a part of the Obama Administration's overall approach to human rights and an

essential component of that effort. As outlined above, the administration's approach, as articulated by President Obama and Secretary Clinton, is guided by broad principles, the first of which is a commitment to universal human rights. In preparing this report, we have endeavored to hold all governments accountable to uphold universal human rights in the Universal Declaration of Human Rights and to their human rights treaty obligations. As Secretary Clinton stated in December, all governments, including our own, must "adhere to obligations under international law: among them not to torture, arbitrarily detain and persecute dissenters, or engage in political killings. Our government and the international community must consider the pretensions of those who deny or abdicate their responsibilities and hold violators to account." The first step in that process is to tell the truth and to identify specific instances where such violations are occurring and where governments are failing to take responsibility for holding violators accountable.

A second element of our approach is a principled and pragmatic engagement with other countries on these issues. This means that we will pursue steps that are most likely to make human rights a human reality. This principled pragmatism starts with an honest assessment of human rights conditions and whether violations are the result of deliberate government repression, governmental unwillingness or inability to confront the problems, or a combination of all three. As Secretary Clinton has said, "With China, Russia, and others, we are engaging on issues of mutual interest while also engaging societal actors in the same countries who are working to advance human rights and democracy. The assumption that we must either pursue human rights or our 'national interests' is wrong. The assumption that only coercion and isolation are effective tools for advancing democratic change is also wrong." These reports provide an essential, factual predicate upon which we can shape current and future policies.

A third element is our belief that although foreign governments and global civil society cannot impose change from outside, we can and should encourage and provide support to members of local civil society and other peaceful change agents within each country. As part of such efforts, these reports can and often do amplify these voices, by making reference to their findings, publicly reinforcing their concerns, and by widely disseminating this information to opinion makers, both internationally and within affected countries.

A fourth element of our approach is to keep a wide focus where rights are at stake and to adopt a broad approach to democracy and human rights. As Secretary Clinton stated, "Democracy means not only elections to choose leaders, but also active citizens and a free press and an independent judiciary and transparent and responsive institutions that are accountable to all citizens and protect their rights equally and fairly." President Obama has also highlighted the crucial linkages between development, democracy, and human rights, noting the centrality of issues such as corruption to the realization of basic rights. Consistent with that approach, these reports cover a wide range of topics and trends, providing a detailed and comprehensive picture of human rights and democracy in each country.

The fifth and final element of our approach has been to pursue progress on these issues through multilateral processes and institutions. As President Obama has acknowledged, we live in an increasingly interdependent and multipolar world, and to achieve our international goals, we need to collaborate with other governments and international actors. That is the reason we have joined the UN Human Rights Council, have actively supported human rights initiatives in the General Assembly, and have more thoroughly engaged in regional bodies like the Organization of American States and the Organization for Security and Cooperation in Europe in promoting democracy and human rights.

In preparing these reports, we relied on information collected by officials in U.S. embassies around the world and on information from other governments and multilateral organizations. We also solicited and relied on useful information from nongovernmental human rights groups, both those operating internationally and those that work at a national level. We also collected information from academics, lawyers, trade unions, religious leaders, and the media. While we benefited from these many inputs, the U.S. Government alone bears responsibility for the content of these reports. The preparation of these reports involves a major commitment of time and energy by hundreds of people, and includes a lengthy process of fact-checking and editing to ensure high standards of accuracy and objectivity.

#### THE YEAR IN REVIEW

In 2009, governments across the globe continued to commit serious violations of human rights. As we survey the world, there still are an alarming number of reports of torture, extrajudicial killings, and other violations of universal human rights. Often these violations relating to the integrity of the person are in countries where conflicts are occurring. These violent attacks are a central concern wherever they take place.

In a significant number of countries, governments have imposed new and often draconian restrictions on NGOs. Since 2008, no fewer than 25 governments have imposed new restrictions on the ability of these organizations to register, to operate freely, or to receive foreign funding, adversely impacting freedom of association. In many countries, human rights defenders are singled out for particularly harsh treatment, and in the most egregious cases, they are imprisoned or even attacked or killed in reaction to their advocacy.

These restrictions and repressive measures are part of a larger pattern of governmental efforts to control dissenting or critical voices. This pattern also extends to the media and to new forms of electronic communications through the Internet and other new technologies. Restrictions on freedom of expression, including on members of the media, are increasing and becoming more severe. In many cases, such restrictions are applied subtly by autocrats aiming to avoid attention from human rights groups and donor countries, such as through the threat of criminal penalties and administrative or economic obstacles, rather than through violence or imprisonment; the end result is still a chilling effect on freedom of expression.

A third trend we observed is the continuing and escalating discrimination and persecution of members of vulnerable groups—often racial, religious, or ethnic minorities, but also women, members of indigenous communities, children, persons with disabilities, and other vulnerable groups that lack the political power in their societies to defend their own interests.

These key trends are discussed in the subsequent sections, illustrated by thumbnail sketches of selected countries (ordered alphabetically) that were chosen for notable developments—positive, negative, or mixed—chronicled during calendar year 2009. For more comprehensive, detailed information, the individual country reports themselves should be consulted.

## SPECIFIC HUMAN RIGHTS TRENDS

### HUMAN RIGHTS ABUSES IN COUNTRIES IN CONFLICT

In many countries where conflicts were raging during the year, noncombatant civilians faced human rights abuses and violations of international humanitarian law. In many of these conflict zones, insurgents, terrorist organizations, paramilitary forces, and government security forces used murder, rape, and inhumane tactics to assert control over territory, silence opponents, and coerce the cooperation of civilian communities in conflict zones. Throughout the world, thousands of men, women, and children died or were mistreated not only in conflicts, but also in campaigns to intimidate civilian populations.

The security situation in Afghanistan deteriorated significantly because of increased insurgent attacks, with civilians bearing the brunt of the violence. Armed conflict spread to almost one-third of the country, hindering the government's ability to govern effectively, extend its influence, and provide services, especially in rural areas. As a result of the insurgency, 1,448 Afghan military personnel, 1,954 government employees, and 2,412 civilians were killed. Approximately five million of the 15 million registered voters participated in the August elections that were marked by serious allegations of widespread fraud, insufficient conditions for participation by women, and a concerted effort by the Taliban to disrupt the voting. Nevertheless, more polling stations opened than in previous elections, the media and public debated political alternatives, and the election followed the constitutional process.

The government in Burma continued its egregious human rights violations and abuses during the year, including increased military attacks in ethnic minority regions, such as in the Karen and Shan state. In August, government soldiers attacked the Kokang cease-fire group, the Myanmar National Democratic Alliance Army, which the government claimed was launched in order to shut down narcotics and arms factories. Tens of thousands of civilians reportedly fled across the border to China as a result of the fighting. Government soldiers destroyed several villages in Shan territory, and some media estimates suggested the army razed up to 500 homes in Kokang territory. The regime continued to rule by decree and was not bound by any constitutional provisions guaranteeing any fundamental freedoms. The regime continued to commit other serious abuses, including extrajudicial killings, custodial deaths, dis-

appearances, rape, torture, forcible relocation of persons, the use of forced labor, and conscription of child soldiers. The government detained civic activists indefinitely and without charges.

In the Democratic Republic of the Congo (DRC), conflict in mineral-rich parts of the east, including counterinsurgency operations by government security forces, resulted in the killing of more than 1,000 civilians; the displacement of hundreds of thousands whose government did not adequately protect or assist them; the rapes of tens of thousands of women, children, and men; the burning of hundreds of homes; the unlawful recruitment or use of thousands of children as soldiers by the DRC military and various armed groups; and abductions of numerous persons for forced labor and sexual exploitation, both domestically and internationally.

Despite substantial improvements in the general security situation in Iraq, human rights abuses continued. There were reports that the government or its agents committed arbitrary or unlawful killings in connection with the ongoing conflict, and insurgent and terrorist bombings, executions, and killings continued to affect all regions and sectors of society. Due to the continuing conflict, violence against the media was common, and media workers reported that they engaged in self-censorship. Although the government publicly called for tolerance and acceptance for all religious minorities and took steps to increase security at places of worship, frequent attacks by insurgent and extremist groups on places of worship and religious leaders, as well as sectarian violence, hampered the ability of individuals to practice their religion freely.

In response to a sharp increase in the number and frequency of rocket attacks from Gaza against civilians in Israel shortly prior to and following the expiration of Hamas's agreed period of "calm" on December 19, 2008, the Israeli Defense Forces launched Operation Cast Lead on December 27, which consisted initially of airstrikes targeted against Hamas security installations, personnel, and other facilities in the Gaza Strip, and later ground operations. Hostilities between Israeli forces and Hamas fighters continued through January 18, and the Israeli withdrawal of troops was completed on January 21. Human rights organizations estimated that close to 1,400 Palestinians died, including more than 1,000 civilians, and that more than 5,000 were wounded. According to Israeli government figures, Palestinian deaths totaled 1,166, including 295 noncombatant deaths. There were 13 Israelis killed, including three civilians. In the West Bank, the Israel Defense Forces relaxed restrictions at several checkpoints during the year that had constituted significant barriers to the movement of Palestinians, yet remaining barriers limited Palestinian access to places of worship, employment, agricultural lands, schools, hospitals, and the conduct of journalism and NGO activities. In Gaza, which remained under the control of Hamas, there were reports of corruption, abuse of prisoners, and failure to provide fair trials to those accused. Hamas also strictly restricted the freedom of expression, religion, and movement of Gaza residents, and promoted gender discrimination against women. Killings by Hamas-controlled security forces remained a problem. There were reports of torture by Gaza Hamas Executive Force and victims were not only security detainees but also included persons associated with the Fatah political party and those

held on suspicion of “collaboration” with Israel. Hamas authorities in Gaza often interfered arbitrarily with personal privacy, family, and home.

National police, army, and other security forces in Nigeria committed extrajudicial killings and used lethal and excessive force to apprehend criminals and suspects. Violence in the form of killings, kidnappings, and forced disappearances; mass rape; and displacement of civilians attributed to both government and nongovernment actors continued in the Niger Delta, despite the formation of the Joint Task Force in 2003 that sought to restore stability to the region. Reports of incidents attributed to militant groups in the Niger Delta decreased upon the president’s offer of amnesty, although violence remained pervasive in the south. Between July 26 and July 29, police and militant members of Boko Haram, an extremist Islamic group, clashed violently in four northern states, resulting in the displacement of approximately 4,000 people and more than 700 deaths, although this figure is not definitive because quick burials in mass graves precluded an accurate count. Sect leader Muhammad Yusuf; Yusuf’s father-in-law, Baba Mohammed; and suspected Boko Haram founder Buji Fai reportedly were killed while in custody of the security forces.

Although Pakistan’s civilian authorities took some positive steps, significant human rights challenges remain. Major problems included extrajudicial killings, torture, and disappearances. Militant attacks in the Federally Administered Tribal Areas (FATA) and the North West Frontier Province (NWFP) killed 825 civilians; security operations to repel the militants from Malakand Division and parts of the FATA displaced almost three million persons at the peak of the crisis (although by year’s end, approximately 1.66 million had returned to their home areas). The Human Rights Commission of Pakistan, the New York Times, and several local publications reported that security forces allegedly committed 300 to 400 extrajudicial killings during counterinsurgency operations in NWFP and Swat. There were widespread accusations that insurgents conducted terror- and revenge killings to intimidate local populations and law enforcement officials. Sectarian violence killed approximately 1,125 persons, and more than 76 suicide bombings killed 1,037 persons.

The situation in the North Caucasus region of Russia worsened as the government fought insurgents, Islamist militants, and criminal forces. Local government and insurgent forces in the region reportedly engaged in killings, torture, abuse, violence, politically motivated abductions, and other brutal or humiliating treatment. In Chechnya, Ingushetia, and Dagestan, the number of extrajudicial killings increased markedly, as did the number of attacks on law enforcement personnel (in actions involving insurgents, 342 members of law enforcement were killed and 680 were injured.) Some authorities in the North Caucasus acted with impunity and appeared to act independently of the federal government, in some cases, allegedly targeting families of suspected insurgents for reprisal and engaging in kidnapping, torture, and extrajudicial punishment.

Before the 33-year conflict in Sri Lanka came to an end in May, government security forces, progovernment paramilitary groups,

and the Liberation Tigers of Tamil Eelam (LTTE) used excessive force and committed abuses against civilians. Several hundred thousand ethnic Tamil civilians were not allowed freedom of movement by the LTTE from LTTE-controlled areas. Artillery shelling and mortar fire by both sides occurred close to and among civilian encampments, resulting in thousands of civilian deaths during the last months of the conflict. From January to May, the LTTE dramatically increased its forced recruitment of child soldiers. Although the number of children recruited and killed in fighting is unknown, the government reported 527 ex-LTTE child soldiers in custody several months after the end of the war. The confinement in camps of nearly 300,000 persons displaced by the end of the conflict called into question the government's postconflict commitment to human rights, although the government began to make significant progress on the treatment of internally displaced persons and other human rights improvements toward the end of 2009, in the run up to the January 2010 presidential election.

Conflict and human rights abuses in the Darfur region of Sudan continued despite the 2006 Darfur Peace Agreement between the government and a faction of the Sudan Liberation Movement/Army. Government-sponsored forces bombed villages, killed civilians, and supported Chadian rebel groups. Women and children continued to experience gender-based violence. Since the conflict in Darfur began in 2003, nearly 2.7 million civilians have been internally displaced, approximately 253,000 have sought refuge in eastern Chad, and more than 300,000 have died. Tensions also persisted between the north and south over the 2005 Comprehensive Peace Agreement. Interethnic conflict and violence perpetrated by the Lord's Resistance Army in southern Sudan resulted in the deaths of approximately 2,500 and the displacement of 359,000 persons during the year.

#### RESTRICTIONS ON FREEDOM OF EXPRESSION, ASSEMBLY, AND ASSOCIATION (INCLUDING NGOS)

Many governments continued to exert control over information that came into and was produced within their countries. This was accomplished by hindering the ability to organize in public, online, or through use of new technologies; by restricting the dissemination of information on the Internet, radio, or television or through print media; and constructing legal barriers that made it difficult for NGOs to establish themselves. According to the National Endowment for Democracy, 26 laws in 25 countries have been introduced or adopted since January 2008 that impede civil society.

In Belarus, the government's human rights record remained very poor. Civil liberties, including freedoms of expression, assembly, association, and religion, continued to be restricted. The government limited distribution of independent print and broadcast media outlets. Authorities used unreasonable force and intimidation to discourage participation in demonstrations and to disperse peaceful protesters. NGOs, opposition activists, and political parties were subjected to persistent harassment, fines, and prosecution, and several leading NGOs were again denied registration, forcing them to operate under threat of criminal prosecution. Following a few posi-



tive steps taken by authorities in 2008, the absence of reform during 2009 was disappointing.

The government of China increased its efforts to monitor Internet use, control content, restrict information, block access to foreign and domestic Web sites, encourage self-censorship, and punish those who violated regulations. The government employed thousands of persons at the national, provincial, and local levels to monitor electronic communications. In January the government began an “anti-vulgarity” campaign that resulted that same month in the closure of 1,250 Web sites and the deletion of more than 3.2 million items of information. The government at times blocked access to selected sites operated by major foreign news outlets, health organizations, foreign governments, educational institutions, and social networking sites, as well as search engines, that allow rapid communication or organization of users. During the year, particularly around sensitive events such as the 20th anniversary of the Tiananmen crackdown, authorities maintained tight control over Internet news and information. The government also automatically censored e-mail and Web chats based on an ever-changing list of sensitive key words. Despite official monitoring and censorship, dissidents and political activists continued to use the Internet to advocate and call attention to political causes such as prisoner advocacy, political reform, ethnic discrimination, corruption, and foreign policy concerns.

Independent media in Colombia were active and expressed a wide variety of views without restriction, and all privately owned radio and television stations broadcast freely. However, members of illegal armed groups intimidated, threatened, kidnapped, or killed journalists, which, according to national and international NGOs, caused many to practice self-censorship and others, 171 to be specific, received protection from the government. The official Administrative Department of Security monitored journalists, trade unionists, the political opposition, and human rights organizations and activists—physically, as well as their phone and email communications and personal and financial data. According to some NGOs, the government allegedly detained arbitrarily hundreds of persons, particularly social leaders, labor activists, and human rights defenders (HRDs), although a key NGO reported that such detentions in 2009 were half the 2008 level. HRDs were also persecuted and accused of supporting terrorism in an effort to discredit their work. Prominent NGOs reported that eight human rights activists and 39 trade unionists were killed during the year. However, the government also worked to protect thousands of union members, human rights activists, and other such groups.

Authorities in Cuba interfered with privacy and engaged in pervasive monitoring of private communications. There was no ability to change the government. There were also severe limitations on freedom of expression and no authorized press apart from official media; denial of peaceful assembly and association; restrictions on freedom of religion; and refusal to recognize domestic human rights groups or independent journalists or to permit them to function legally. The law allows for punishment of any unauthorized assembly of more than three persons, including those for private religious services in private homes. The law also provides for imprisonment

for vaguely defined crimes such as “dangerousness” and “peaceful sedition.” The government did not grant permission to any antigovernment demonstrators or approve any public meeting by a human rights group. Authorities held numerous opposition leaders pursuant to sentences ranging up to 25 years for peaceful political activities and detained activists for short periods to prevent them from attending meetings, demonstrations, or ceremonies. Although unauthorized, the organization Damas de Blanco (Ladies in White) generally was allowed to assemble and walk to church each Sunday demanding freedom for their imprisoned family members. However, the organization reported that its activities beyond the traditional weekly marches to church were disrupted on several occasions during the year. In addition, a prominent blogger and her colleague were detained and beaten while en route to a peaceful protest. Human rights activists also reported frequent government monitoring and disruption of cell phone and landline services prior to planned events or key anniversaries related to human rights. Authorities have never approved the establishment of a human rights group; however, a number of professional associations operated as NGOs without legal recognition.

The government’s poor human rights record degenerated during the year, particularly after the disputed June presidential elections. Freedom of expression and association and lack of due process continued to be problems within Iran, and the government severely limited individuals’ right to change their government peacefully through free and fair elections. Following the June 13 announcement of President Ahmadi-Nejad’s reelection, hundreds of thousands of citizens took to the streets to protest. Police and the paramilitary Basij violently suppressed demonstrations. The official death count was 37, although opposition groups report the number may have reached 70. By August, authorities had detained at least 4,000 individuals, and arrests continued throughout the year. A massive show trial involving many of the more prominent detainees was undertaken in September. On June 20, according to eyewitnesses, Basij militia killed Neda Agha-Soltan in Tehran. The video of her death appeared on YouTube and became a symbol of the opposition movement. Ahead of the June presidential election, on the actual day of election, and during the December 27 Ashura protests, when authorities detained 1,000 individuals and at least eight persons were killed in street clashes, the government blocked access to Facebook, Twitter, and other social networking sites. After the June election, there was a major drop in bandwidth, which experts posited the government caused to prevent activists involved in the protests from accessing the Internet and uploading large video files. The government continued to restrict freedom of religion severely, particularly against Baha’is and, increasingly, Christians.

The government of North Korea continued to subject citizens to rigid controls over many aspects of their lives, specifically denying citizens freedoms of expression, assembly, and association. Reports by defectors and NGOs of extrajudicial killings, disappearances, and arbitrary detention, including of political prisoners, continued to paint a grim picture of life there. The government sought to control virtually all information: there were no independent media,

Internet access was limited to high-ranking officials and other elites, and academic freedom was repressed. Domestic media censorship continued to be strictly enforced and no deviation from the official government line was tolerated. Similarly, the government prohibited all but the political elite from listening to foreign media broadcasts, and violators were subject to severe punishment. There was no genuine freedom of religion. Reports continued that religious believers, their families, and even their descendents were imprisoned, tortured, or simply relegated to a lower status. Indocination was carried out systematically through the mass media, schools, and worker and neighborhood associations and continued to involve mass marches, rallies, and staged performances, sometimes including hundreds of thousands of persons.

Government actions weakened freedom of expression and media independence within Russia by directing the editorial policies of government-owned media outlets, pressuring major independent outlets to abstain from critical coverage, and harassing and intimidating some journalists into practicing self-censorship. During the year, unknown persons killed a number of human rights activists and eight journalists, including prominent journalist and human rights activist Natalia Estemirova, who spent more than 10 years documenting cases of killings, torture, and disappearances that she linked to the Chechen authorities. President Medvedev stated it was “obvious” that the killings were connected to Estemirova’s work and ordered an immediate investigation to find the perpetrators, but there have been no arrests or prosecutions in this case. The government increasingly attempted to restrict media freedom to cover sensitive issues such as the conduct of federal forces in Chechnya, human rights abuses, and criticism of some government leaders. Likewise, many observers noted a selective pattern of officials encouraging government-friendly rallies while attempting to prevent politically sensitive demonstrations. The government also attempted to restrict the activities of some NGOs, making it difficult for some to continue operations. Upon hearing criticism of the 2006 NGO law at a meeting with the Presidential Council on Human Rights, President Medvedev called existing regulations a “burden” and announced that some regulations would be eased. None of the amendments to the law applied to foreign NGOs.

Government officials in Venezuela, including the president, used government-controlled media outlets to accuse private media owners and reporters of fomenting antigovernment destabilization campaigns and coup attempts. Senior federal and state government leaders also actively harassed privately owned and opposition-oriented television stations, media outlets, and journalists throughout the year, using administrative sanctions, fines, and threats of closure to prevent or respond to any perceived criticism of the government. The government’s harassment of Globovision, the largest private television network, included raiding the home of the company’s president and publicly calling for the company’s closure. At year’s end, 32 radio stations and two television stations had been closed, and 29 other radio stations remained under threat of closure. One domestic media watchdog reported that 191 journalists either were attacked or had their individual rights violated during the year. NGOs expressed concern over official political discrimina-

tion against, and the firing of, state employees whose views differed from those of the government. Private groups also alleged that the government was pursuing 45 persons as “political objectives” using various legal and administrative means. The Organization of American States’s Inter-American Commission on Human Rights recently noted “a troubling trend of punishments, intimidation, and attacks on individuals in reprisal for expressing their dissent with official policy.”

The human rights record of the government of Vietnam remained problematic. The government increased its suppression of dissent, arresting and convicting several political activists. Several editors and reporters from prominent newspapers were fired for reporting on official corruption and outside blogging on political topics. Bloggers were detained and arrested under vague national security provisions for criticizing the government and were prohibited from posting material the government saw as sensitive or critical. The government also monitored e-mail and regulated or suppressed Internet content, such as Facebook and other Web sites operated by overseas Vietnamese political groups. The government utilized or tolerated the use of force to resolve disputes with a Buddhist order in Lam Dong and Catholic groups with unresolved property claims. Workers were not free to organize independent unions, and independent labor activists faced arrest and harassment.

The government of Uzbekistan tightly controlled the media and did not permit the publication of views critical of the government. Government security officials regularly gave publishers articles and letters to publish under fictitious bylines, as well as explicit instructions about the types of stories permitted for publication. In July, a court convicted independent journalist Dilmurod Sayid to 12 and one-half years in prison on charges of extortion and bribery soon after he published articles regarding the corruption of local government officials. The government requires all NGOs and religious organizations to register in order to operate, and the activities of international human rights NGOs are severely restricted because the government suspects them of participating in an international “information war” against the country. Any religious service conducted by an unregistered religious organization is illegal, and police frequently broke up the meetings of unregistered groups, generally held in private homes. Reportedly, in some regions, universities and schools closed to send students to work in cotton fields; students who refused were expelled or threatened with expulsion.

#### DISCRIMINATION AND HARASSMENT OF VULNERABLE GROUPS

Members of vulnerable groups—racial, ethnic and religious minorities; the disabled; women and children; migrant workers; and lesbian, gay, bisexual, and transgender individuals—often were marginalized and targets of societal and/or government-sanctioned abuse.

China continued to exert tight control over activities and peoples that the government perceived as a threat to the Chinese Communist Party. For example, public interest lawyers who took on cases deemed sensitive by the government increasingly were harassed or disbarred, and their law firms often were closed. The gov-

ernment also increased repression of Tibetans and Uighurs. The government tightened controls on Uighurs expressing peaceful dissent and on independent Muslim religious leaders, often citing counterterrorism as the reason for taking action. Following the July riots that broke out in Urumqi, the provincial capital of XUAR, officials cracked down on religious extremism, “splittism,” and terrorism in an attempt to maintain public order. In the aftermath of the violence, Uighurs were sentenced to long prison terms and in some cases were executed, without due process, on charges of separatism. At year’s end, Urumqi remained under a heavy police presence and most Internet and international phone communication remained cut off. In the Tibetan areas of China, the government’s human rights record remained poor as authorities committed extrajudicial killings, torture, arbitrary arrests, and extrajudicial detentions. Authorities sentenced Tibetans for alleged support of Tibetan independence, regardless of whether their activities involved violence. The preservation and development of Tibet’s unique religious, cultural, and linguistic heritage also remained a concern.

The government of Egypt failed to respect the freedom of association and restricted freedom of expression, and its respect for freedom of religion remained very poor. Sectarian attacks on Coptic Christians mounted during the year. The government failed to redress laws and government practices that discriminate against Christians. The government sponsored “reconciliation sessions” following sectarian attacks, which generally prevented the prosecution of perpetrators of crimes against Copts and precluded their recourse to the judicial system for restitution. This practice contributed to a climate of impunity and may have encouraged further assaults. Members of non-Muslim religious minorities that the government officially recognized generally worshipped without harassment; however, Christians and members of the Baha’i faith, which the government does not recognize, faced personal and collective discrimination in many areas. In a step forward, the government promulgated procedures for members of unrecognized religions, including the Baha’i faith, to obtain national identification documents and reportedly issued 17 such documents and 70 birth certificates to Baha’i during the year.

As a growing number of people cross borders to find work, migrant workers have become particularly vulnerable to exploitation and discrimination. In Malaysia, foreign workers were subject to exploitative conditions and generally did not have access to the system of labor adjudication. However, the government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. The law did not effectively prevent employers from holding employees’ passports, and it was common practice for employers to do so. Some domestic workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, confiscated their travel documents, and physically assaulted them.

Violence against women, violations of the rights of children, and discrimination on the basis of gender, religion, sect, and ethnicity were common in many countries in the Middle East region. In

Saudi Arabia, for example, Muslim religious practices that conflict with the government's interpretation of Sunni Islam are discriminated against and public religious expression by non-Muslims is prohibited. Human rights activists reported more progress in women's rights than in other areas, and the government made efforts to integrate women into mainstream society, for example, through the founding of the Kingdom's first coeducational university in September. However, discrimination against women was a significant problem, demonstrated by the lack of women's autonomy, freedom of movement, and economic independence; discriminatory practices surrounding divorce and child custody; the absence of a law criminalizing violence against women; and difficulties preventing women from escaping abusive environments. There are no laws specifically prohibiting domestic violence. Under the country's interpretation of Shari'a (Islamic law), rape is a punishable criminal offense with a wide range of penalties from flogging to execution. Statistics on incidents of rape were not available, but press reports and observers indicated rape against women and boys was a serious problem.

Lesbian, gay, bisexual, and transgender (LGBT) persons in Uganda faced arbitrary legal restrictions. It is illegal to engage in homosexual acts, based on a 1950 legal provision from the colonial era criminalizing "carnal acts against the order of nature" and prescribing a penalty of life imprisonment. No persons have been charged under the law. The September introduction in parliament of a bill providing the death penalty for "aggravated homosexuality" and for homosexual "serial offenders" resulted in increased harassment and intimidation of LGBT persons during the year; the proposed legislation also provides for a fine and three years' imprisonment for persons who fail to report acts of homosexual conduct to authorities within 24 hours. Public resentment of homosexual conduct sparked significant public debate during the year, and the government took a strong position against such conduct despite a December 2008 ruling by the High Court that constitutional rights apply to all persons, regardless of sexual orientation. The local NGO Sexual Minorities Uganda protested alleged police harassment of several members for their vocal stand against sexual discrimination.

Traditional and new forms of anti-Semitism continued to arise, and a spike in such activity followed the Gaza conflict in the winter of 2008-2009. Often despite official efforts to combat the problem, societal anti-Semitism persisted across Europe, South America, and beyond and manifested itself in classic forms (including physical attacks on Jewish individuals, synagogue bombings, cemetery desecrations; the theft of the "Arbeit Macht Frei" sign from the Auschwitz Death Camp; and accusations of blood libel, dual loyalty, and undue influence of Jews on government policy and media.) New forms of anti-Semitism took the form of criticism of Zionism or Israeli policy that crossed the line into demonizing all Jews, and, in some cases, translated into violence against Jewish individuals in general. Instead of combating anti-Semitism, some governments fueled it, most notably Iran's President Ahmadi-Nejad. Anti-Semitic propaganda, including Holocaust denial, was circulated widely by satellite television, radio, and the Internet. A television show

in Egypt that was widely aired throughout the region did not deny the Holocaust, but instead glorified it, praising the slaughter and humiliation of Jews and calling for future Holocausts.

In several countries with generally strong records of respecting human rights, there were nevertheless some notable examples of members of vulnerable groups facing discrimination and harassment. Discrimination against Muslims in Europe has been an increasing concern. A recent case that received international attention was the passage on November 29 in Switzerland of a constitutional amendment banning the construction of minarets. A provision in the Swiss constitution enables direct citizen involvement. The amendment passed with 57.5 percent of the vote despite opposition from both parliament and the Federal Council and public statements by many of the country's leaders describing such a ban as contradicting basic values in the country's constitution and violating its international obligations. Proponents of the initiative to ban minarets contended the construction of minarets symbolized a religious and political claim to power.

In the wake of the economic downturn, there have been a number of killings and incidents of violence against Roma, including in Italy, Hungary, Romania, Slovakia, and the Czech Republic. Roma are the largest and most vulnerable minority in Europe; they suffer racial profiling, violence, and discrimination. There were also reports of mistreatment of Romani suspects by police officers during arrest and while in custody. Roma faced high levels of poverty, unemployment, and illiteracy, as well as widespread discrimination in education, employment, and housing.





## SOUTH AND CENTRAL ASIA

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### AFGHANISTAN

Afghanistan is an Islamic republic; population estimates range from 24 to 33 million. In August citizens voted in their second presidential and first-ever contested election; after his challenger withdrew from a run-off election, the Independent Electoral Commission (IEC) declared Hamid Karzai president for a second term. Citizens who participated in the election faced threats of insurgent violence; at least 31 persons were killed on August 20, election day, including 11 IEC members. The elections were marked by serious allegations of widespread fraud; a Taliban offensive to disrupt the elections through public threats, fear-mongering, and violence; low turnout; and insufficient conditions for participation by women.

The country's human rights record remained poor. Human rights problems included extrajudicial killings, torture, poor prison conditions, official impunity, prolonged pretrial detention, restrictions on freedom of the press, restrictions on freedom of religion, violence and societal discrimination against women, restrictions on religious conversions, abuses against minorities, sexual abuse of children, trafficking in persons, abuse of worker rights, the use of child soldiers in armed conflict, and child labor.

The security situation in the country deteriorated significantly during the year because of increased insurgent attacks, with civilians continuing to bear the brunt of the violence. Armed conflict spread to almost one-third of the country, including previously unaffected areas in the north and northeast. The marked deterioration in security posed a major challenge for the central government, hindering its ability to govern effectively, extend its influence, and deliver services, especially in rural areas. The security environment also had an extremely negative effect on the ability of humanitarian organizations to operate freely in many parts of the country, particularly in providing life-saving care. Insurgents deliberately targeted government employees and aid workers. Efforts to contain the insurgency by military and non-military means continued. Reports of human rights violations were actively exploited and sometimes manufactured by the Taliban and other insurgent groups for propaganda purposes.

According to the Ministry of Interior (MOI), 1,448 Afghan military personnel and 1,954 government employees, primarily police, died as a result of the insurgency, including deaths by suicide attacks, roadside bombs, small-arms attacks, and targeted assassinations.

Civilian casualties increased sharply due to insurgent actions. According to the UN Assistance Mission to Afghanistan's (UNAMA) Annual Report on the Protection of Civilians in Armed Conflict, the year was the deadliest for civilians since 2001, with 2,412 civilian casualties, compared with 2,118 in 2008, an increase of 14 percent. Taliban and antigovernment elements were responsible for 67 percent of civilian casualties, killing 1,630 civilians, compared with 1,160 in 2008, an increase of 41 percent since 2008. The MOI reported 2,590 civilians killed and 3,646 injured during the year. Taliban and antigovernment elements continued to threaten, rob, attack, and kill villagers, foreigners, and nongovernmental organization (NGO) workers. As in 2008, suicide and improvised explosive device (IED) attacks killed more Afghan civilians than any other tactic.

Progovernment forces also bore responsibility for civilian casualties. Airstrikes, whether seeking high-value targets or providing close air support on battles located in areas with high concentrations of civilians, remained responsible for the largest percentage of civilian deaths by progovernment forces; during the year UNAMA recorded 65 incidents of International Security Assistance Force (ISAF) airstrikes in which reportedly more than 359 civilians were killed, down 28 percent from 552 killed in 2008.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports that the government or its agents committed arbitrary or unlawful killings. In addition, insurgents killed civilians during conflict, and insurgent groups increased politically targeted killings during the year (see section 1.g.).

Taliban and insurgent attacks escalated in both number and complexity during the year. According to the June report of the UN Secretary General, in the first half of the year, security incidents in Kandahar city and the airport district of Damam increased by 80 percent compared with 2008. On February 17, a suicide bombing in Kandahar killed 80 men and boys and injured 90 individuals. On August 25, in Kandahar, a truck bomb killed at least 65 and injured more than 100 persons, mostly civilians; although Taliban spokesmen denied involvement, it was widely believed the Taliban were responsible for the attack, which may have targeted a foreign business.

Kabul became a key terrorist target during the year. On August 15, five days before the presidential elections, a suicide car bomb exploded outside the main gate of NATO headquarters and the Ministry of Transportation, killing seven and wounding 91 persons; Taliban spokesman Zabiullah Mojahed claimed the Taliban was responsible for the blast. On September 6, two rockets landed in Kabul, killing four civilians, including one woman and two children, and wounding three others. On September 17, Taliban killed 20 persons with a suicide car bomb at a major intersection. On October 8, Taliban killed 17 individuals in a bomb attack on the Indian Embassy. On October 28, insurgents killed 11 persons, including five UN staffers, and injured at least nine others, in an attack on a Kabul UN guesthouse. On November 16, Taliban fired rockets into a bazaar northeast of Kabul, killing 16 and wounding 37. Insurgents staged a total of 36 suicide and IED attacks and fired 19 rockets in Kabul during the year.

Violence occurred in many parts of the country, escalating in the last quarter of the year. On August 31, according to Ariana Television, an IED in Kunduz province killed two children and injured four others. On September 1, in Jowzjan province, a bomb killed one child. On September 2, in Laghman province, a suicide bomb exploded outside a mosque, killing 23, including National Directorate of Security (NDS) Deputy Director Abdullah Laghmani, and wounding 54 others, including women and children. On the same day, Taliban insurgents hanged a man in Baghlan province on suspicion of spying for foreign forces and the government. On September 7, an explosion in Uruzgan province killed four and injured 20 persons, including four Afghan National Police (ANP) officers. On September 29, a crowded intercity bus traveling from Herat to Kandahar struck a roadside bomb in Maiwand, Kandahar, killing 30 and injuring 39; no group claimed responsibility for the attack. On November 16, Taliban raided a police station in the Arghandab district near Kandahar, killing eight officers and wounding three.

On November 27, gunmen attacked and killed Makhdoum Abdullah, the provincial head of Afghanistan's Red Crescent Society in Takhar, as he was walking home. President Karzai ordered an investigation into the attack.

There were other insurgent attacks that targeted civilians or injured or killed them during attacks on coalition or Afghan security and/or government targets.

On December 27, Taliban attacked the town of Langar, Badghis province, burning the girls' school and looting the health clinic. Three police officers were killed in the attack.

On September 15, construction workers discovered a mass grave in Kunduz province containing the remains of at least 26 bodies believed to date from the Soviet-backed government era. According to UNAMA's local human rights officer, provincial authorities marked the sites but did not conduct an investigation.

In July a foreign government began an investigation of a mass grave site in Jowzjan province that allegedly contained remains of 2,000 Taliban fighters killed in conflict in 2001. In December 2008 Physicians for Human Rights (PHR) reported that most of the evidence from the Jowzjan site had been removed.

According to PHR, there were 84 known mass grave sites in the country. There were no new developments regarding the April and June 2008 discoveries of mass graves.

There were no updates regarding the August and September 2008 insurgent killings (see section 1.g.).

There were no developments regarding the investigation of a May 2007 killing of 10 persons by police in Jowzjan province or in the October 2007 case of 15 prisoners executed at Pol-e-Charkhi prison under executive order amid allegations of lack of due process.

*b. Disappearance.*—There were reports of insurgent groups and criminals perpetrating disappearances and abductions during the year in connection with the ongoing insurgency (see section 1.g.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, there were reports of abuses by government officials, local prison authorities, police chiefs, and tribal leaders. NGOs reported that security forces continued to use excessive force, including beating and torturing civilians.

Human rights organizations reported local authorities tortured and abused detainees. Torture and abuse methods included, but were not limited to, beating by stick, scorching bar, or iron bar; flogging by cable; battering by rod; electric shock; deprivation of sleep, water, and food; abusive language; sexual humiliation; and rape. An April Afghanistan Independent Human Rights Commission (AIHRC) report stated that torture was commonplace among the majority of law enforcement institutions, especially the police, and that officials used torture when a victim refused to confess to elicit bribes or because of personal enmity. Observers report that some police failed to understand the laws regarding torture.

In May the local media widely reported that local officials in the Chora district in Uruzgan arbitrarily arrested and reportedly tortured five individuals. Officials released the individuals after three days of detention in exchange for money and weapons.

The Ministry of Women's Affairs (MOWA) and NGOs reported that police frequently raped female detainees and prisoners. For example, on September 15, Radio Arman reported that authorities had arrested three police officers in Dai Kundi province for the rape of a 13-year-old girl. An Afghan National Army (ANA) soldier was sentenced to 15 years' imprisonment for the September 2008 rape of an 11-year-old girl in Jowzjan province; UNAMA confirmed that the soldier remained in custody at year's end.

There were reports of torture and other abuses by Taliban and other insurgent groups. Media reports and firsthand accounts accused Taliban of employing torture in interrogations of persons they accused of supporting coalition forces and the central government. The Taliban contacted newspapers and television stations in such cases to claim responsibility.

According to the AIHRC, many of the children in detention centers and orphanages were exposed to physical abuse. According to the International Committee of the Red Cross (ICRC), cases of authorities threatening and mistreating juvenile detainees occurred throughout the year.

*Prison and Detention Center Conditions.*—Prison conditions remained poor; however, the government took some steps to improve conditions within the Ministry of Justice (MOJ) prisons and detention centers. Most prisons and detention centers, particularly MOI detention centers, were decrepit, severely overcrowded, and unsanitary and fell well short of international standards. The AIHRC, ICRC, and other observers continued to report that inadequate food and water, poor sanitation facilities, insufficient blankets, and infectious diseases were common conditions in the country's prisons. Infirmaries, where they existed, were underequipped. Prisoners with contagious diseases and prisoners with mental illness rarely were separated from other prisoners. However, UNAMA observed significant operational improvements in conjunction with international support to train and mentor prison staff in the provinces. International observers noted that the MOJ and Central Prison Directorate (CPD) leadership were actively striving to improve staff working conditions and prisoner living conditions with the goal of meeting the UN minimum standards for prisoners and detainees.

The government reported 34 provincial prisons and 203 district detention centers. The government also reported 30 juvenile rehabilitation centers. No official information was available on the number of prisoners the NDS held or the number of facilities the NDS ran. The CPD reported 109 female detainees and 356 female prisoners in 23 detention centers and provincial prisons.

Children younger than six whose mothers had been convicted of a crime often lived in prison with their mothers, particularly if they had no other relatives. This practice was dramatically reduced under the direction of the CPD and in conjunction with the opening of the Children's Center Home in Kabul, operated by local NGO Women for Afghan Women. Women were not imprisoned with men. Authorities generally did not separate prisoners awaiting trial from the rest of the inmate population. Juveniles awaiting trial in rehabilitation centers were not usually separated from those convicted, nor were they separated in terms of age, nature of the charge against them, or other criteria.

The ANP sometimes lacked sufficient detention facilities. For example, in Lashkar Gah, Helmand province, ANP authorities detained 16 boys and two girls in a prison at a rented property of cave-type structures that lacked adequate ventilation, running water, or sanitation. They were reportedly adequately fed, and the boys received some education.

On August 18, on the 90th anniversary of the country's independence, President Karzai released 700 prisoners, including 23 women, and reduced the sentences of 239 prisoners. Their violations ranged from drug and alcohol abuse to adultery, rape, theft, robbery, fraud, forgery, manslaughter, and murder; sentences ranged from six months' to 10 years' imprisonment.

The MOI and the MOJ permitted the AIHRC, the United Nations Children's Fund (UNICEF), and the ICRC to visit all prisons the MOI and the MOJ operated. In November the ICRC was permitted access to a Taliban prison for the first time since 2001; they visited three members of the Afghan National Security Forces (ANSF) detained in Badghis province. Security constraints occasionally prevented ICRC delegates from visiting some places of detention. NGOs reported powerful local leaders and insurgents, including Taliban, continued to operate private prisons. In some cases tribal leaders may have held persons accused of crimes in private detention. The ICRC and the AIHRC did not have access to prisoners and hostages detained by insurgents.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest or detention; however, both remained serious problems. According to a January UN report, many citizens were detained without enjoying essential procedural protections.

*Role of the Police and Security Apparatus.*—Three ministries have responsibility both in law and in practice for providing security in the country. The ANP, under the MOI, has primary responsibility for internal order but increasingly was engaged in fighting the insurgency. The ANA, under the Ministry of Defense (MOD), is responsible for external security. The NDS had responsibility for investigating cases of national security and also functioned as an intelligence agency. In some areas certain individuals, some of whom reportedly were linked to the insurgency, maintained considerable power as a result of the government's failure to assert control. NATO remained in control of ISAF, which worked closely with the national security forces.

Official impunity was pervasive. Many observers believed ANP personnel were largely unaware of their responsibilities and defendants' rights under the law. Credible sources, including detainees, reported local police in many parts of the country extorted a "tax" at checkpoints and inflicted violence (including sexual violence against boys) at police checkpoints. Police also reportedly extorted bribes from civilians in exchange for release from prison or to avoid arrest. Police abuses generally have declined following international police training efforts. Observers alleged that the high acquittal rate in courts reflected the lack of training of judges, poor investigations, lack of evidence, and possible bribes to legal officials. Lack of formal education and low literacy rates among the ANSF and the judiciary hampered the consistent delivery of justice.

International support for recruiting and training new ANP personnel continued, with the goal of professionalizing the police force, including the ongoing implementation of the CPD staff prison reform and restructuring program. The international community worked with the government to develop awareness and training programs as well as internal investigation mechanisms to curb security force corruption and abuses. Training programs for police emphasize law enforcement, the constitution, police values and ethics, professional development, the prevention of domestic violence, and fundamental standards of human rights, in addition to core policing skills. The MOI reported that during the year, every new police officer received training in human rights. In every province two officers were responsible for human rights reporting. In Kabul 50 officers were responsible for human rights reporting, including internal police matters. Nevertheless, human rights problems persisted.

In October the government implemented a criminal case management system to ensure that suspects were appropriately charged, that evidence was appropriately passed from police investigators to prosecutors to courts, and that prisoners were not held past the duration of their sentence.

The Helmand Huquq (Human Rights) Department of the MOJ expressed willingness to train community leaders and justice providers with information about the constitution and its provisions against discrimination (including violence), but Helmand Huquq officials were unable to travel throughout the country due to the poor security situation.

NGOs and human rights activists noted that societal violence, especially against women, was widespread; in many cases the ANP did not prevent or respond to the violence.

*Arrest Procedures and Treatment While in Detention.*—Arbitrary arrest and detention remained problems.

The law provides for access to legal counsel and the use of warrants, and it limits how long detainees may be held without charge. Authorities often did not inform detainees of charges against them. Police have the right to detain a suspect as long as 72 hours to complete a preliminary investigation. If they decide to pursue a case, the file is transferred to the Prosecutor's Office, which must interrogate the suspect within 48 hours. The investigating prosecutor can continue to detain a suspect without formal charges for 15 days from the time of arrest while continuing the investigation. With court approval, the investigating prosecutor may detain a suspect for an additional 15 days. The prosecutor must file an indictment or release the suspect within 30 days of arrest. Investigation may continue even if an indictment cannot be completed within the 30 days. In practice many detainees did not benefit from any or all of these provisions. The media and human rights organizations reported arbitrary arrest in most provinces. Observers reported that prosecutors and police detained individuals on average for nine months without charging them, sometimes for actions that were not crimes under the law, in part because the judicial system was inadequate to process detainees in a timely fashion. UNAMA reported that police detained individuals for "moral crimes," breaches of contractual obligation, family disputes, and to extract a confession. There was little consistency in the length of time detainees were held before trial or arraignment. Postsentence detention also was reportedly common. According to a UNAMA report, in cases in which a prison sentence and a fine were handed down, impoverished prisoners sometimes remained in prison after their sentence had been completed. The AIHRC in Paktya province reported that it petitioned monthly for the release of approximately 50 to 60 persons detained because of lack of follow-up on their cases.

According to the MOJ, 20 to 30 children were detained on national security-related charges in juvenile rehabilitation centers during the year; all were male, eight younger than 15. Observers reported 11 more children detained in Baghlan, Herat, Helmand, and Kunduz not reflected in the MOJ data. The juvenile code presumes children should not be held to the same standard as adults.

Detained children were typically denied their basic rights and many aspects of due process, including presumption of innocence, the right to be informed of charges, access to defense lawyers, and the right not to be forced to confess. Some of the children in the criminal justice system were victims rather than perpetrators of crime; particularly in cases of sexual exploitation, perpetrators were seldom imprisoned as cases were seldom prosecuted, and some victims were perceived as shameful and in need of punishment, having brought shame on their family by reporting the abuse. Some children were allegedly imprisoned as a family proxy for the actual perpetrator, presumably a bread-winner.

"Zina," a criminal act under the penal code, defined as heterosexual penetration between persons not married to one another, technically means adultery or fornication. In practice police and legal officials often invoked zina to justify the arrest and incarceration of women for social offenses such as running away from home, defying family wishes on the choice of a spouse, fleeing domestic violence or rape, or eloping. Police often detained women for zina at the request of family members. UNAMA reported cases of zina in nearly every province. Authorities imprisoned some women for reporting crimes perpetrated against them and some as "proxies," serving as substitutes for their husbands or male relatives convicted of crimes. Authorities placed some women in protective custody to prevent violent retaliation by family members.

Authorities frequently did not rearrest defendants even after an appellate court convicted them in absentia. There was no bond system; authorities justified posttrial detentions because defendants released pending appeal often disappeared.

There were 963 practicing prosecutors; many of them lacked any formal legal training. More than 850 defense lawyers, 80 of whom were women, were registered and licensed in the country's independent bar association. The MOJ had 50 legal aid providers in 13 provinces. According to the MOJ, 14,857 persons were detained in correctional facilities nationwide, of whom 10,593 had been tried and convicted; the remaining 4,264 were awaiting trial.

The Criminal Law Reform Working Group, which included local legal experts and international rule of law advisors, completed its revision of the criminal procedure code and submitted it to the Taqin, the legislative drafting department of the MOJ, for further consideration. At year's end the Taqin had not taken steps to respond to the Criminal Law Reform Working Group's recommendations.

The criminal procedure code sets limits on pretrial detention, but authorities did not respect such limits, and lengthy pretrial detention remained a problem, in part because the overburdened system could not process detainees in a timely fashion. The UN High Commissioner for Refugees (UNHCR), ICRC, AIHRC, and other observers reported that arbitrary and prolonged detentions frequently occurred throughout the country.

*Amnesty.*—According to Radio Free Europe, in September President Karzai pardoned Sayed Perwiz Kambakhsh, a 24-year-old former journalism student serving a 20-year sentence for blasphemy for downloading and distributing material from the Internet that the courts deemed anti-Islamic. At year's end he was living outside the country in an undisclosed location. International media and human rights groups had widely criticized this conviction as a violation of freedom of speech and freedom of religion.

The Law on National Reconciliation and Amnesty, which was published in December 2008, grants amnesty to persons engaged in conflict during the past 25 years.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, but in practice the judiciary was often underfunded, understaffed, and subject to political influence and pervasive corruption. Bribery, corruption, and pressure from public officials, tribal leaders, families of accused persons, and individuals associated with the insurgency threatened judicial impartiality. The Counter Narcotics Tribunal in Kabul, whose member salaries the international community supplemented and who worked within a secure compound, was an exception, and international organizations reported no evidence of corruption or political influence involving its officials. Other courts administered justice unevenly, according to a mixture of codified law, Shari'a (Islamic law), and local custom.

The formal justice system was relatively strong in the urban centers, where the central government was strongest, and weaker in the rural areas, where approximately 72 percent of the population lives. Nationwide, fully functioning courts, police forces, and prisons were rare. The judicial system lacked the capacity to handle the large volume of new and amended legislation. A lack of qualified judicial personnel hindered the courts. Municipal and provincial authorities, including judges, had minimal training and often based their judgments on their personal understanding of Shari'a, tribal codes of honor, or local custom. Lack of access to legal codes and statutes hindered judges and prosecutors.

The Supreme Court has overall responsibility for the national court system. The president appoints Supreme Court members with the approval of the lower body of the House of Representatives (Wolesi Jirga). Judges for the primary and appellate courts are appointed by recommendation of the Supreme Court and approval of the president. There were widespread shortages of judges; the Supreme Court reported there were 77 judges, including seven women. A national security court tried terrorists and other cases, although details on its procedures were limited.

In areas not under government control, the Taliban enforced a parallel judicial system. The Taliban issued punishments including cutting off fingers, beheadings, beatings, and hangings. On May 9, Taliban leader Mullah Omar issued "The Islamic Emirate of Afghanistan's Rules for Mujahideen," which stated that beheadings were an explicit violation of the rules, possibly a response to ISAF's commitment to reducing civilian casualties. Nevertheless, on December 6, Radio Salam Watandar reported that the bodies of two police officers were found beheaded in Lashkar Gah, Helmand province. According to the report, Taliban had abducted the police officers in November in Helmand province. The code also called for a reduction in the number of suicide attacks; however, the Taliban more than doubled the number of IED attacks during the year.

Courts primarily decided criminal cases in major cities, as mandated by law, although civil cases often were resolved in the informal system. Because of the unreliable formal legal system, in rural areas local elders and shuras (consultative gatherings, usually of men selected by the community) were the primary means of settling both criminal matters and civil disputes; they also levied unsanctioned punishments. Some estimates suggested 80 percent of all cases went through shuras, which did not adhere to the constitutional rights of citizens and often violated the rights of women and minorities.

*Trial Procedures.*—Trial procedures rarely met internationally accepted standards. The administration and implementation of justice varied in different areas of the country. By law all citizens are entitled to a presumption of innocence. In practice the courts typically convicted defendants after sessions that lasted only a few minutes. Defendants have the right to be present at trial and to appeal; however, these rights were not always applied. Trials were usually public. All criminal trials are decided by judges, as there is no right to a jury trial under the constitution.

A defendant also has the right to consult with an advocate or counsel at public expense when resources allow. This right was inconsistently applied, in part due to a severe shortage of defense counsel. Defendants frequently were not allowed to confront or question witnesses. Citizens often were unaware of their constitutional rights. Defendants and attorneys were entitled to examine the physical evidence and the documents related to their case before trial; however, observers noted that in practice court documents often were not available for review before cases went to trial.

When the accused is held in custody, the primary court must hear the trial within two months. The appellate court has two months to review the case of an incarcerated person. Either side may appeal; the accused defendant who is found innocent may remain detained in the legal system until the case moves through all three levels of the judiciary: first court, appeals, and the Supreme Court. The decision of the primary court becomes final if an appeal is not filed within 20 days. Any second appeal must be filed within 30 days, after which the case moves to the Supreme Court, which must decide the case of the defendant within five months. If the appellate deadlines are not met, the law requires that the accused be released from custody. In many cases courts did not meet these deadlines.

Under Shari'a relatives of victims can pursue a case against a suspected offender. A judge can offer restitution or, in the case of murder, execution, which the relatives can carry out only if a member of the family consents. Under Shari'a, if the family of the victim forgives the perpetrator, the judge must issue a pardon.

In cases lacking a clearly defined legal statute, or cases in which judges, prosecutors, or elders were unaware of the law, judges and informal shuras enforced customary law; this practice often resulted in outcomes that discriminated against women. This included the practice of ordering the defendant to provide compensation in the form of a young girl to be married to a man whose family the defendant had wronged.

*Political Prisoners and Detainees.*—There were no reports that the government held political prisoners or detainees. There were reports that a number of tribal leaders, sometimes affiliated with the government, held prisoners and detainees. There were no reliable estimates of the numbers involved.

*Civil Judicial Procedures and Remedies.*—Citizens had limited access to justice for constitutional and human rights violations, and interpretations of religious doctrine often took precedence over human rights or constitutional rights. The judiciary did not play a significant role in civil matters due to corruption and lack of capacity. Land disputes remained the most common civil dispute and were most often resolved through the informal justice system.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits arbitrary interference in matters of privacy; however, the government did not respect these prohibitions in practice, and there were no legal protections for victims.

Government officials forcibly entered homes and businesses of civilians without judicial authorization. UNAMA reported that community members alleged theft of possessions during home searches the military conducted. UNAMA also reported that searches by members of the military or security officials involved conduct toward women that contravened local customs and angered local communities.

The law provides for wiretapping in certain cases, but there was no reported government abuse; wiretapping was permitted to track money laundering and narcotics trafficking.

The government's willingness to recognize the right to marry varied according to nationality, gender, and religion. The family court could register a marriage between a Jewish or Christian woman and a Muslim man, but the court required the couple to accept a Muslim ceremony. A non-Muslim woman had to convert to Islam before marrying a Muslim man. The court could not register a marriage between a Muslim woman and a non-Muslim man. These situations rarely occurred, however, as more than 99 percent of the population was Muslim. The courts registered marriages between non-Muslims, however.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Ongoing internal conflict caused civilian deaths, abductions, prisoner abuse, property damage, and the displacement of residents.

*Killings.*—The security situation in the country deteriorated significantly during the year, and civilian casualties rose accordingly. Increases in coalition operations and insurgent attacks caused civilian casualties to rise. Persistent Taliban and antigovernment activity, interfactional fighting between regional warlords, and criminal activity resulted in hundreds of unlawful killings and civilian casualties.

UNAMA reported that Taliban and antigovernment forces killed 1,630 civilians, progovernment forces killed 596 civilians, and unknown actors killed 186 civilians, for a total of 2,412 civilian casualties, an increase of 14 percent over the 2,118 civilian deaths recorded in 2008. Taliban and antigovernment elements remained responsible for 67 percent of civilian casualties.

Insurgent suicide attacks increased significantly, with 281 suicide attacks during the year, compared with 138 suicide attacks in 2008. UNAMA recorded 773 IED attacks during the year, which insurgents used extensively and increasingly; suicide and IED attacks combined caused 1,054 civilian deaths, or 44 percent of the total civilian casualties. The Taliban and other insurgent groups were responsible for nearly three times as many casualties as progovernment forces.

Insurgents targeted national and government officials, foreigners, and local NGO employees.

Insurgents targeted and killed government officials during the year. The MOI reported 964 police were killed and 1,787 were injured as a result of insurgent attacks. On August 27, in Kunduz, an IED killed Qari Jan Gir, the head of the Justice Department of Kunduz, and on August 30, in six separate incidents in four provinces, insurgents killed 11 police officers and at least six civilians. Targeted killings included an attack on May 4 that killed the mayor of Mehterlam city in Laghman as well as six civilians; and on June 21, a series of attacks on government buildings in Jalalabad and Gardez that killed nine persons. On December 15, a remotely detonated roadside IED killed Koshk District police chief Colonel Abdul Karim and three other police near the district headquarters. Karim was the second Koshk district police chief and the fourth district police chief in Herat province to be killed during the year. The Taliban claimed responsibility. The ANP arrested seven persons in connection with the case.

On July 19, in the period before the election, gunmen killed Jan Mohammad, a candidate for provincial council in Kunduz, while he was campaigning. This was the first time a provincial council candidate had been assassinated in Kunduz Province.

According to the International Crisis Group, at least 31 persons were killed on election day. Security officials reported that 11 civilians and 20 police and soldiers were killed in election-related violence.

During the year antigovernment elements continued to attack progovernment religious leaders. According to the MOI, the Taliban killed at least 71 clerics and committed at least 17 acts of violence inside mosques and other religious facilities. Tolo TV reported that on September 9, insurgents killed a mullah in a mosque in Ghazni province after he spoke out against insurgent forces.

According to UNICEF, from January to June, there were 470 confirmed targeted attacks on education (schools, teachers, staff, and pupils), resulting in 30 deaths and 186 injuries to schoolchildren, teachers, and other school employees. According to data from the Ministry of Education (MOE) referenced by Human Rights Watch, from April to August, insurgents attacked 102 schools using explosives or arson and killed 105 students and teachers. There were no updates on the May or June 2008 killings of teachers (see section 6).

ISAF airstrikes remained responsible for the largest percentage of civilian deaths by progovernment forces; during the year UNAMA recorded 65 airstrikes in which reportedly more than 359 civilians were killed, a 28 percent decrease from 2008. The decline in civilian casualties reflected ISAF's changed tactics as part of a major commitment to minimize civilian casualties in the armed conflict. Nevertheless, during the year there were several high-profile incidents. On May 4, in Bala Baluk, Farah province, a coalition airstrike targeting the Taliban reportedly killed more than 60 women and children; following its investigations into the event, the U.S. military acknowledged that it had failed to comply with guidelines for protecting civilians. On September 4, a coalition airstrike targeting insurgents who had hijacked two fuel trucks south of Kunduz killed more than 30 civilians and injured nine who were offloading fuel from the trucks. On December 26, a coalition attack allegedly killed 10 civilians in Nanreng district in Kunar province; credible reports indicated that the civilians were armed and possibly underage. No further information was available at year's end.

*Abductions.*—The MOI reported 368 abductions during the year, at least one of which resulted in the death of a hostage. The Afghanistan NGO Safety Office (ANSO) reported insurgents and others kidnapped 20 aid workers during the year, a decline from 38 in 2008; all abductees were local staff. ANSO reported that most abductions were temporary and most abductees were released unharmed, usually due to the efforts of community elders. One person was reportedly killed while resisting an abduction attempt. Observers alleged that noninsurgency-related kidnapping was a form of dispute resolution.



Security officials arrested six suspects in the 2008 kidnapping of Humayun Shah Asifi, a relative of the late King Zahir Shah; the investigation continued at year's end.

*Physical Abuse, Punishment, and Torture.*—Land mines and unexploded ordnance continued to cause deaths and injuries, restricted areas available for farming, and impeded the return of refugees. The United Nations Mine Action Center for Afghanistan (UNMACA) reported that land mines and unexploded ordnance killed or injured an average of 40 persons each month, a significant decline from 57 per month in 2008.

Numerous groups including UNMACA and Halo Trust organized and trained mine detection and clearance teams that operated throughout the country. UN agencies and NGOs conducted educational programs and mine awareness campaigns for more than 1.5 million persons, primarily women and children, in various parts of the country. At year's end land mines and unexploded ordnance imperiled approximately 2,000 communities.

*Child Soldiers.*—The legal recruitment age for members of the armed forces is 18. There continued to be unconfirmed reports that children younger than 18 falsified identification records to join the national security forces and the ANP. There were no reports of forced child conscription by the government into the national security forces.

The government, with international assistance, vetted all recruits into the armed forces and police, rejecting applicants under the age of 18.

Anecdotal evidence suggests that insurgent recruitment of underage soldiers was on the rise. There were numerous credible reports that the Taliban and other insurgent forces recruited children younger than 18, in some cases as suicide bombers and in other cases to assist with their work. For example, in Uruzgan the Taliban reportedly used children to dig hiding places for IEDs. There were many reports of insurgents using minor teenage boys as combatants in Paktya province. In July in Helmand province, authorities apprehended a child before he allegedly would have been equipped to become a suicide bomber. NDS officials held several children in the juvenile detention facility in Helmand on insurgency-related charges. Although most of the children were 15 or 16 years old, reports from Ghazni province indicated that insurgents recruited children as young as 12, particularly if they already owned motorbikes and weapons. NGOs and UN agencies reported that the Taliban tricked, promised money to children, or forced them to become suicide bombers.

Sexual abuse of boys by members of the ANP and the ANA was widely alleged but unconfirmed.

*Other Conflict-Related Abuses.*—The December report of the UN Secretary-General stated that attacks against the aid community slightly increased during the year, becoming a nearly daily occurrence in the last quarter. On October 29, in an attack on a Kabul UN guesthouse, the Taliban killed 11 persons, including five UN staffers. The Taliban, tribal leaders, and other insurgents abducted security forces, civilians, and journalists.

As in 2008, suspected Taliban members fired on NGO vehicles and attacked NGO offices. Violence and instability hampered development, relief, and reconstruction efforts. In a study of 25 provinces, ANSO reported 114 security incidents involving NGOs and aid workers between January 1 and September 30. NGOs reported that insurgents, powerful local individuals, and militia leaders demanded bribes to allow groups to bring relief supplies into the country and distribute them. The difficulties in moving relief goods overland due to insurgent threats limited assistance efforts. Tribal leaders and low-level members of insurgent groups reportedly extorted bribes at illegal border and other checkpoints. Due to the increasing violence, the UN considered many parts of the country inaccessible.

As in recent years, the Taliban distributed threatening messages in attempts to curtail government and development activities. Ten jurists from Laghman province reported that judges and prosecutors routinely faced death threats and other forms of intimidation in their jobs. In addition to threats against persons working for the government or NGOs, the Taliban distributed "night letters" (death threats) and text messages warning citizens not to vote in the August 20 elections, including messages to an entire village in Uruzgan.

Insurgents regularly used civilians as "human shields," either by forcing them into the line of fire or by basing operations in civilian settings. UNAMA documented how insurgent forces deliberately deployed their forces in populated villages, with the intent of embarrassing international coalition forces and the government and increasing civilian casualties from airstrikes.

In the south and east, the Taliban and other antigovernment elements frequently forced local residents to provide food and shelter to their fighters. The Taliban also continued to attack schools, radio stations, and government offices.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, journalists increasingly were vulnerable to physical harm and reported numerous instances of pressure from multiple sources to influence reporting, including national and provincial governments, warlords, the drug mafia, foreign governments and individuals, and Taliban insurgents. Some media observers contended that individuals could not criticize the government publicly without fear of reprisal.

On June 14, the government detained two Al Jazeera journalists—a producer for the station's Arabic service and a senior producer at the English language channel—after Al Jazeera broadcast a report on Taliban strength in Kunduz province. Authorities released the journalists without charge after holding them for three days at NDS headquarters in Kabul.

On August 19, the Ministry of Foreign Affairs and the MOD issued decrees barring journalists from reporting on election day violence and ordering them to stay away from the scenes of terrorist attacks. Most journalists ignored the ban, but NDS agents beat and briefly detained 15 journalists who ignored the directive. According to the Committee to Protect Journalists, security forces obstructed, assaulted, and detained Afghan and foreign journalists in Kabul and elsewhere on election day.

At year's end member of parliament (MP) Malalai Joya remained suspended from parliament for her 2007 criticism of her fellow MPs during a televised interview. Other members of parliament expressed criticism of government policies without incident.

Independent media were active and reflected differing political views. Although some independent journalists and writers published magazines and newsletters, circulation largely was confined to Kabul, and many publications exercised a degree of self-censorship. The freedom of speech law covered foreign media; however, they were restricted from commenting negatively on Islam and from publishing materials considered a threat to the president.

Violence against journalists increased during the year. According to independent media and observers, a combination of government repression, armed groups, and manipulation by foreign groups and individuals prevented the media from operating freely. Journalists were subject to pressure from government officials, foreign governments, and the Taliban and other insurgents, who harassed, intimidated, and threatened to commit violence against them.

Governmental officials intimidated journalists in an effort to influence their reporting. Media sources reported instances of provincial officials attempting to regulate the media based on their personal interests. Local officials asked the director of Uruzgan Radio and Television to obtain content approval before broadcasting television and radio programs.

Media sources reported that police detained journalists without cause. According to Media Watch, there were 85 reported cases of violence against journalists, including three killings, nine kidnappings, 35 cases of arrest, 12 cases of intimidation, 22 cases of beating, and four cases of injury. The Media Watch annual report noted government involvement in 57 of the 85 cases of violence against journalists.

According to many media sources, private Iranians, Pakistanis, and Gulf state citizens actively influenced Afghan media, shaping the media through both ownership and threats. According to media sources, Iranian sources funded approximately five radio stations and three television stations. Media sources indicated that the Iranian consulate in Herat threatened and rewarded journalists. Some reporters stated that Iranian embassy staff in Kabul called them to prevent the publication of articles criticizing Iran. There were also rumors that Iran paid secret salaries to a number of Afghan journalists in Kabul as well as in the western provinces, and allegations that Iran intimidated reporters in the western provinces to increase antigovernment reporting and decrease anti-Iranian articles. Media sources and analysts contended that many of the other private television stations and newspapers were bankrolled by, and produced content loyal to, various political factions, leaders, and warlords.

On October 5, police reportedly assaulted Wahkt News Agency (WNA) cameraman and photographer Mohammad Naeem while he was documenting the killing of a businessman and two security personnel by unidentified gunmen wearing military uniforms. The police confiscated Naeem's camera, beat him, and held him in detention for almost an hour. Police officers released Naeem and returned the camera to

him after Afghan Independent Journalists' Association and WNA representatives intervened.

On October 20, multiple media sources reported that the MOI arrested editors Nazari Paryani of Mandagar Daily and Hashmatullah Raadfar of Nukhost Daily for publishing allegedly imbalanced information about the MOI after the newspapers had reprinted an article from the Internet. The editors were released after three hours through the mediation of Nai Media Watch and IEC Media Commission Chairman Sidiqullah Tawhidi. The Ministry of Information and Culture (MoIC) described MOI's actions as illegal. The case was referred to the government commission on media oversight.

Muhammed Naseer Fayeze, news anchor and host of the political program Haqeeqat ("Truth"), arrested in July 2008 by NDS agents, returned to work on January 2 for Ariana Television.

The 2008 media law, published in July, is intended to protect freedom of thought and expression and legally protect journalists as they carry out their work; however, it contains content restrictions. Article 45 restricts works and materials contrary to the principles of Islam or other religions and sects; works that publicize religions other than Islam; works and materials considered defamatory, insulting, offensive, or libelous or that may cause damage to a person's personality or credibility; works and materials that are contrary to the constitution and penal code; disclosure of the identity and pictures of victims of violence and rape in a manner that damages their social dignity; and works and material that harm the psychological security and moral wellbeing of individuals, especially children and adolescents. Nai Media and the Afghan National Journalists Union reported that the MoIC failed to implement the law by year's end.

Media sources claimed that the independent media prospered despite the efforts of the MoIC to actively undermine an open and free media environment. The MoIC and some provincial governors exercised control over news content to varying degrees during the year. According to media sources, the MoIC maintained cumbersome licensing procedures. Before the election the MoIC complained that several new print outlets were operating without licenses. Factional authorities controlled media in some parts of the country. The Institute for War and Peace Reporting (IWPR) noted tight controls, especially in the provinces of Balkh, Jowzjan, Faryab, Sar-i Pul, Kandahar, Herat, and Nangarhar. According to journalists, many reporters exercised self-censorship by not asking substantive questions of government officials and by ignoring certain investigative stories. Powerful figures largely avoided media scrutiny. Members of the media reported they did not interview Taliban commanders or leaders due to government pressure; police in Helmand province jailed journalists for speaking to the Taliban. Some media observers considered it more difficult for journalists to operate in the areas of the country the government controlled than in Taliban-controlled areas.

On August 26, in Kandahar city, police severely beat a local journalist of Radio Azadi, the in-country service of Radio Free Europe/Radio Liberty, and took his notebooks and sound recorder when he visited the site of a bombing.

On July 30, in Herat, police officers and plainclothes NDS personnel reportedly attacked four journalists as they attempted to cover a public demonstration against the police killing of a fruit seller. The International Federation of Journalists reported that MOI officials investigated the attack.

On December 3, gunmen from the Islamic Revolution Movement party (Hezb-e Harakat Inqelab-e Eslami) held Sepehr TV journalist Nasir Ahmad and cameraman Sefatollah for four hours in Kabul. The gunmen beat, insulted, and humiliated the men and destroyed camera equipment. Tolo TV reported that the assailants were possibly security guards working for a former government official.

On August 18, the government issued a statement requiring all news agencies to refrain from covering incidents of "terrorist activities or movements" between 6 a.m. and 8 p.m. on election day. Informed observers believed the order was intended to minimize public knowledge of polling place violence. NDS officials enforced the ban. The government also required journalists covering the election to sign a code of conduct specifying that the journalists could not publish "scandalous advertisements and disgrace reports about [a] candidate's personality or behavior that could affect the election results." According to news reports, on August 20, police briefly detained at least three foreign journalists and at least 12 local journalists. According to the Committee to Protect Journalists, on August 20, authorities detained and interrogated a Japanese television correspondent for several hours, and also detained Dutch photojournalist Ruben Terlo and Rohulla Samadi, an interpreter with independent Afghan media organization Killid Media, for 30 minutes, after they covered a gun battle between the Taliban and police. Multiple accounts reported police beating journalists, threatening them with guns and confiscating equipment, but no seri-

ous injuries were reported. Almost all the reported incidents occurred at the scene of attacks by insurgent groups.

At least two journalists were killed during the year. On March 10, in Kandahar, two persons shot and killed Jawed (Jojo) Ahmad, a reporter working for Canadian television. Authorities had held Ahmad in military custody for 11 months at Bagram Theater Internment Facility, allegedly for having contacts with the Taliban; he was released in September 2008.

On September 9, journalist Sultan Ahmad Munadi died in a firefight between NATO soldiers and militants during the rescue of Munadi and New York Times reporter Stephen Farrell, whom the Taliban had abducted in the vicinity of a coalition airstrike in Kunduz. There were no updates regarding the 2008 killing of a Norwegian journalist or the killings of Abdul Samad Rohani, Ajmal Naqshbandi, Shakiba Sanga Amaj, or Zakia Zaki.

The Taliban abducted at least six journalists during the year. Nai Media reported that on July 10, the Taliban abducted Ariana Television Chief Ehsanullah Arianzai in Wardak province and held him for two days. On July 12, the Taliban kidnapped a journalist for Al-Jazeera English news in Kunar province before releasing him after several hours. On November 6, the Taliban kidnapped Norwegian freelance journalist Paal Refsdal and an Afghan colleague (who was not named in local or international reports about the incident) in Kunar province; they were released November 12.

On June 19, New York Times reporter David Rohde and his translator, Tahir Ludin, escaped their Taliban captors after seven months in captivity.

On August 11, in Kandahar, an IED seriously injured Associated Press photographer Emilio Morenatti and videographer Andi Jatmiko, who were traveling in a military vehicle.

The Taliban manipulated the media, especially print journalism, both directly and indirectly, by threatening to physically harm some journalists and by directly feeding news to others. Some sources asserted that the media underreported reconstruction efforts, for example, as a result of Taliban pressure to shape local opinion. Journalists reported receiving threats of harm if they did not publish stories released on Taliban Web sites, if they published anti-Taliban stories, or if they published stories favorable to the government.

The Taliban increased efforts to influence and control radio, which reaches more persons in remote areas than other media. In Kunduz two radio stations reported threats from the Taliban. One of the stations shut down as a result of Taliban pressure. Taliban spokesman Zabiullah Mojahed rejected Taliban responsibility.

Despite these obstacles, media sources and observers asserted that the country's independent media continued to expand and became increasingly sophisticated. Numerous international and local organizations provided regular training and mentoring for journalists.

The IWPR stated that broadcast media operated somewhat more freely than print media and that commercially viable stations received less government control than others. Nai Media stated that FM radio stations broadcast in many remote regions throughout the year.

Television broadcasts appeared to avoid some of the restrictions imposed on print journalism. Satirical programming was widespread; every private television station had at least one comedy-satire program that openly criticized government officials.

Prior to the August 20 elections, radio and television stations ran unprecedented candidate debates, forums, and interviews, widening the content and quality of information available to the public. Several stations ran live coverage on election day. Reporters Without Borders, Internews, and other news groups noted that equal time protections were not in place and many candidates could not afford to pay for messages, so unequal access to airtime for the more than 40 presidential candidates hindered impartiality. The Media Commission of the IEC did not find significant problems with candidate access to the media, although it stated that state media aired biased reports in favor of the incumbent president.

On September 8, Sokhan-e-Jadid, a conservative weekly newspaper, threatened the lives of Hasht-e-Sob employees based on their reporting of the elections. The same day, Tolo TV reported that IEC Media Commission Chairman Tawhidi warned several media outlets that they would be subject to legal action for slander of an Afghan national.

According to the United Nations Development Fund for Women (UNIFEM), print media did not adequately cover female candidates. Tolo TV showed a presidential debate focused on women's issues. Shahala Atta, one of two women running for president, participated in the debate.

The number of female journalists remained low. According to the IWPR, only 15 of the 54 recent female journalism graduates from Herat University worked in

media. Mazar, Herat, Kunduz, and Faryab provinces each had women's radio stations. With International Organization for Migration (IOM) funding, Radio Television Afghanistan upgraded its AM radio facilities in Badghis, opening a media production center for female journalists. Women ran two private radio stations in Kunduz city, but the deteriorating security situation hindered their reporting.

Free Muse reported that on March 24, the MoIC arrested Fahim Kohdamani, manager of Emrooz TV, for broadcasting music programs allegedly "against Islam values and Afghan culture." Observers considered the arrest politically motivated because of the selective application of such rulings.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including e-mail messages. Tolo TV reported that the MoIC ordered four election-related Web sites to close, claiming they were "undermining the personality of presidential candidates" they favored or opposed.

Sayed Perwiz Kambakhsh's case involved government sanction against distributing information downloaded from the Internet; however, media observers believed his case was unlikely to function as a deterrent for seeking culturally or politically taboo information. Internet access was unavailable to most citizens; computer literacy and ownership rates were estimated at less than 10 percent of the population.

*Academic Freedom and Cultural Events.*—The government restricted academic freedom by forbidding course content it deemed un-Islamic. Article 10 of the 2008 Mass Media Law states that academic research "shall be subject to prior approval of concerned ministries and institutions." Educators at public universities stated that they censored themselves when discussing questions of ethnicity; it was not clear whether the self-censorship was from fear of official or university sanctions or from societal pressure.

The MoIC tried to ban Indian and Western television shows and films. The IWPR stated that a former attorney general raided Tolo TV offices and detained journalists and administrators to intimidate broadcasters to stop broadcasting soap operas. Station owners spoke to members of parliament and reached an agreement that allowed the showing of shows censored for local sensibilities.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association; however, security conditions and, in some cases, local officials restricted this right in practice.

*Freedom of Assembly.*—A lack of physical security as well as interference from local authorities and security forces inhibited freedom of assembly in areas of the country where security was poor.

Pajhwok news agency reported on January 1 that police severely injured a demonstrator at an impromptu demonstration at a madrassa in Kunduz city. The demonstrator was hospitalized. On April 15, in Kabul, more than 300 women, most of them students, held a protest against the Shia Personal Status Law (SPSL). Five times as many counterprotesters retaliated, some throwing stones at the protesters. On August 31, a spontaneous protest occurred in Kandahar city, when 40 burqa-clad women marched to the site of the August 25 bombing in a public display of mourning for the dozens killed and injured. On September 10, journalists, civil society, and human rights organizations in Kabul demonstrated to condemn the killing of journalist Sultan Ahmad Monadi in Kunduz province and demanded a full investigation. On September 12, civil society organizations and tribal councils gathered in Khost to protest provincial administration incompetence. On September 23, 1,000 individuals gathered at the Babur Gardens in Kabul to mark the International Day of Peace. On September 27, more than 5,000 supporters of presidential candidate Abdullah Abdullah gathered in Kabul to "stand against fraud." Also in September, nearly 60 citizens of Chora district in Uruzgan province protested in front of the provincial reconstruction team headquarters without incident. On October 25, women's rights representatives from 10 provinces gathered in Kabul to express concern over increasing insecurity and rising violence, and on November 30, religious scholars in Kunar spoke out against violence against women, saying women should be respected as equals to men.

Mass protests took place across the country after insurgents spread rumors that Western troops burned a Koran during a house search in Wardak province on October 15; the rumors, reportedly spread by the Taliban, took nearly a week to gain public attention. On October 23, students at Khost University gathered to protest the alleged desecration of the Koran, burning a U.S. flag and a picture of President Obama. On October 25, hundreds of secondary school students in Pul-i-Alam, Logar province, peacefully protested the desecrations. On October 25, hundreds of students turned out in two separate demonstrations in Kabul, one in front of the parliament

building and another at Kabul University. An estimated 1,000 demonstrators burned an effigy of U.S. President Obama and hurled stones at police; police responded by firing into the air to disperse the crowd. Later, hundreds of students gathered at Kabul University to protest; at least three persons were injured, including two parliament security guards, and several students were arrested on charges of attacking the police and throwing rocks in public places. On October 27, in Kabul, Afghan police opened fire and turned a water cannon on approximately 300 persons who marched on the parliament to protest the alleged incident; at least 12 were injured. Also on October 27, 800 to 1,000 students staged a peaceful demonstration in Balkh province; students chanted anti-U.S., anti-British, and anti-Israel slogans.

On December 8, approximately 50 supporters of defeated provincial council incumbent Ohliya Amoor, including Amoor himself, staged an unruly protest in front of the provincial IEC office in Panjshir, throwing stones and breaking windows. The ANP made no arrests.

On December 8, numerous media outlets reported that hundreds of angry residents of Mehtarlam, the capital city of Laghman province, staged a protest against what they claimed was the killing of 15 civilians, including women and children, by U.S. forces in Laghman province that day. ANA soldiers fired into the air as the demonstrators neared the entrance to the governor's house; eyewitnesses alleged the rounds killed a man and seriously injured a child. On December 9, 2,000 students of Nangahar University staged a protest condemning the deaths of civilians during the raid in Laghman province. On the same day, more than 400 university students in Jalalabad protested, blocking a main highway. On December 26, hundreds of Nangarhar University students and faculty members blocked main roads in Jalalabad city, Nangarhar province, to protest the alleged deaths of 10 civilians as a result of the coalition military operation in Nanreng district in Kunar province. The protesters demanded the intervention of government officials to stop escalated attacks against civilians and chanted slogans against the coalition forces.

On December 27, approximately 300 tribal elders and Khogyani tribesmen demonstrated in front of the Nangarhar governor's palace to protest the recently released Provincial Council results. The demonstrators objected to the exclusion of several Khogyani provincial council (PC) candidates who had been included in the initial PC election results but omitted from the final list of PC members distributed by the IEC. The demonstrators also announced plans to coordinate with the Shinwari and Mohmand tribes of Nangarhar to organize several large protests over the next few days in Jalalabad, possibly blocking the main entrances to the city.

On December 31, in the wake of television and press reports detailing the arrest of four suspects in the September 2 assassination of NDS Deputy Director Abdullah Laghmani, more than 100 protesters gathered in Mehtarlam to demand justice. Although the demonstration was by all accounts peaceful, the protesters reportedly called for the immediate deaths of the four suspects. Locals speculated that the demonstration was organized by the Laghmani family. After congregating in central Mehtarlam, the protesters moved south to continue their activities at the intersection of the provincial highway with National Highway 7, which connects Kabul with Jalalabad.

There were no updates on the March 2008 protests or the May 2008 civilian killings.

*Freedom of Association.*—The law on political parties obliges parties to register with the MOJ and requires them to pursue objectives consistent with Islam. Political parties based on ethnicity, language, Islamic school of thought, and religion were not allowed. Anti-government violence affected the ability of provincial council candidates and political parties to conduct activities in many areas of the country.

*c. Freedom of Religion.*—The constitution proclaims Islam is the “religion of the state” but allows non-Muslim citizens the freedom to perform their rituals within the limits determined by laws for public decency and peace. This right was not respected in practice. The constitution also declares that no law can be “contrary to the beliefs and provisions of Islam.” The penal code permits the courts to defer to Shari'a in cases involving matters that the penal code or constitution do not explicitly address, such as apostasy. The SPSL, which was amended in the summer to remove the most controversial phrases, went into effect for Shias in July. The Sunni Hanafi-based civil code governs the family courts for Sunnis and those the SPSL does not cover; this civil code also applies to non-Muslims.

Licensing and registering religious groups is not required; the government assumes all native-born citizens to be Muslim. In practice non-Muslims faced harassment and social oppression and opted to practice their faith discreetly. According to Islamic law, conversion from Islam is punishable by death.

There was no progress in the case of journalists Ahmed Ghouse Zalmi and Mullah Qari Mushtaq, sentenced to 20 years in prison in 2008 for publishing a Dari translation of the Koran that allegedly contained errors and without the legally required Arabic version alongside for comparison.

Societal pressure forced Christians to remain underground, not openly practicing their religion or revealing their identity. During the year there were sporadic reports of harassment and threats against Christians. There was one known Christian church in the country. Citizens wishing to practice Christianity did so in private locations. However, a Christian television program called "Afghan Television" broadcast weekly by satellite into the country, and several Christian radio stations were on the air.

Public school curricula continued to include Islamic content, in accordance with article 45 of the constitution. Non-Muslims were not required to study Islam, and there were no restrictions on parental religious teaching. The Ministry of Education opened special primary schools for Hindu and Sikh children in Ghazni, Jalalabad, and Helmand.

Laws forbid proselytizing as contrary to the beliefs of Islam, and authorities could punish blasphemy and apostasy with death under Shari'a. Foreigners caught proselytizing were arrested and sometimes deported.

During the year antigovernment elements continued to attack progovernment religious leaders for supporting the government or for stating that activities conducted by terrorist organizations were against the tenets of Islam. There were no updates regarding the March 2008 attacks against clerics in Nimroz province.

*Societal Abuses and Discrimination.*—Social discrimination against Shia Hazaras continued along class, race, and religious lines. Ethnic Hazaras reported occasionally being asked to pay additional bribes at border crossings where Pashtuns were allowed to pass freely.

Sikhs and Hindus were allowed to practice their faith publicly, although they reportedly continued to face discrimination, including intimidation; unequal access to government jobs; and verbal and physical abuse in public places. Kabul government officials bulldozed sections of the Sikh neighborhood in Kart-e-Parwan to build new roads, damaging numerous homes. The government stated it would pay restitution to homeowners, but by year's end it had not done so. The new road in front of the gurdwara (the Sikh house of worship) threatened the building's structural integrity. In November the government bulldozed the gurdwara's boundary wall to build a sidewalk and promised to pay restitution for the damage, but it had not done so by year's end.

Non-Muslims faced discrimination in schools. The AIHRC continued to receive reports that students belonging to the Sikh and Hindu faiths were prevented from enrolling in some schools, and others stopped attending due to harassment from both teachers and students. Hindus and Sikhs had recourse to dispute resolution mechanisms such as the Special Land and Property Court, but in practice the community felt unprotected. Sikhs and Hindus reported being harassed by neighbors in their communities and schools.

There were no reports of anti-Semitic acts. There was only one known Jewish resident in the country, caretaker of the one remaining synagogue in Kabul.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/g/drl/rls/irf](http://www.state.gov/g/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, social custom limited many women's freedom of movement without male consent or chaperone, and the government limited citizens' movement due to security interests. The greatest restriction to movement in some parts of the country was the lack of security. In many areas insurgent violence, banditry, land mines, and IEDs made travel extremely dangerous, especially at night. The government cooperated with the UNHCR, the IOM, and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, and other persons of concern.

Taxi, truck, and bus drivers reported that security forces and armed insurgents operated illegal checkpoints and extorted money and goods. The number of such checkpoints increased at night, especially in the border provinces. Residents reported having to pay bribes to ANP and border police officials at checkpoints and the Khyber Pass border crossing between Jalalabad and Pakistan. The Taliban imposed nightly curfews on the local populace in regions where it exercised authority, mostly in the southeast.

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

According to the AIHRC and the UNHCR, women deported from Iran were referred to a safe house until their families guaranteed their safety. The UNHCR referred 17 Afghan women to safe houses from March to November.

*Internally Displaced Persons (IDPs).*—Afghanistan continued to experience high levels of internal population movements, triggered by irregular labor conditions, large numbers of returnees, poor service infrastructure in rural areas, military operations, and the volatile security situation in some parts of the country. During the year severe flooding in several provinces rendered families homeless. Authorities estimated there were more than 275,000 IDPs in the country at year's end, two-thirds of whom depended on assistance, including food. More than half of the IDPs were in the south. Many were among the more than one million IDPs who left their places of origin because of drought in 1995, insecurity and drought in 2002, and human rights violations and ethnic-based conflict linked to land and property matters between 2003 and 2004. These individuals resided in camp-like circumstances, primarily in the south, but officially organized and spontaneous settlements have sprung up on the outskirts of major cities, including Kabul, Herat, and Jalalabad.

Authorities estimated approximately 62,000 individuals were newly displaced within the country during the year, including some 45,000 individuals due to insecurity and violence linked to armed conflict in their region of origin; approximately 6,600 persons newly affected by drought; and approximately 9,900 affected by tribal, ethnic, or land disputes. Local governments provided housing assistance and, in some cases, food aid to conflict-affected IDPs through provincial emergency commissions consisting of the Ministry of Rural Rehabilitation and Development, Afghan Red Crescent Society, UNHCR, IOM, UNAMA, and UNICEF. UNAMA reported restricted access due to insecurity limited efforts to assess the numbers of displaced persons and made it difficult to provide assistance.

On April 17, two earthquakes struck Nangarhar province, killing 22, injuring 59, and leaving 650 families homeless. Local authorities, the Afghan National Disaster Management Authority, the Ministry of Public Health, and the UN provided emergency assistance.

Returnees and other migrants faced high health risks, including HIV infection and drug addiction. HIV incidence in the camps increased fivefold in five years. The spread of HIV in part reflected increasing rates of injectable drug use, particularly among 15- to 25-year-old individuals, the largest age cohort in the country; they were also the largest group of drug users and the largest cohort among returnees who had not returned to their places of origin.

*Protection of Refugees.*—The country is a party to the 1951 Convention on the Status of Refugees and its 1967 Protocol. Laws do not provide for granting asylum or refugee status, and the government has not established a system for providing protection to refugees.

In October approximately 500 Pakistani families fled to Kunar province as military activity increased in Pakistani-Afghan border areas. Local residents gave shelter to most of the refugees. The government did not provide free services to refugees. Refugees had access to primary education and other public services if they could afford to pay for them.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular group, or political opinion.

The country continued to focus on providing services for returning refugees, but the government's capacity to absorb returnees, often in conflict settings, remained low. The continuing insurgency and related security concerns, as well as economic difficulties, discouraged numerous refugees from returning to the country. Many refugees needed humanitarian assistance upon arrival. Common types of extreme vulnerability, as defined by the UNHCR, included minors unaccompanied by adult family members, drug addiction, mental illness, and severe physical illness.

In accordance with the Tripartite Agreement among the government, the Pakistan government, and the UNHCR, repatriation must be voluntary. During the year 48,320 documented refugees voluntarily repatriated from Pakistan with UNHCR assistance, a significant decrease from the 274,200 refugees repatriated in 2008.

In August the UNHCR suspended repatriation of local citizens from Pakistan due to insecurity in the country and in the processing areas in Pakistan. Pakistan abandoned its unilateral December 31 deadline to repatriate all refugees, and the Pakistan government's commitment to permit registered Afghan refugees to remain in Pakistan through 2012 was not formalized by year's end. In Pakistan three of the



four refugee camps scheduled for closure during the year remained open. There were an estimated 1.7 million registered refugees in Pakistan, an estimated 180,000 unregistered individuals eligible for refugee status, and an estimated 230,000 individuals who may have been eligible for refugee status but who had not come forward to register.

The situation of the country's refugees in Iran—mostly non-Pashtuns—contrasted markedly with life for refugees in Pakistan. Fewer than 2.5 percent of local citizens settled in refugee camps in Iran; the majority resided in urban areas. During the year 5,801 documented refugees voluntarily returned from Iran with assistance from the UNHCR, compared with 3,656 in 2008. The UNHCR estimated that approximately 900,000 documented refugees, 43 percent of whom were Hazara, remained in Iran. The World Refugee Survey reported more than one million unregistered Afghans lived in Iran.

Iran continued to deport undocumented economic migrants. Iranian migration was mostly temporary and cyclical, with more than 400,000 adult male individuals staying on average for 3.5 years without their families. According to the UN, remittances from Iran exceeded 25 billion Afghanis (\$500 million) annually. From October 15 to November 22, Iran deported 17,894 undocumented Afghans through the border points at Islam Qala, Herat province, and Zaranj, Nimroz province. Single males accounted for more than 96 percent of the deportations; many cycled back repeatedly. During the year Iran deported 292,229 persons, compared with 356,027 in 2008. The average number of Afghans deported daily during the year was 896, compared with a daily average of 1,089 in 2008.

The IOM worked to renew a Memorandum of Understanding with the Government of Iran to offer advance notification of mass deportations in order to avoid overwhelming destination cities such as Herat. It was reportedly less expensive to be smuggled across the border than to pay for a temporary working visa—approximately 25,000 Afghanis (\$500) versus 40,000 Afghanis (\$800). Despite shared religious beliefs for Shia followers, Afghans were reportedly subject to ethnic discrimination and were shunted into low-skill manual labor. There were also reports that the Mahdi Army, an Iraqi Shiite insurgency force, paid high recruitment fees to young men.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in the August presidential and provincial council elections.

*Elections and Political Parties.*—During the year approximately five million citizens voted in presidential and provincial council elections, and the first competitive presidential election in the country's history. Hamid Karzai was declared the winner. Elections were held amid significant security, geographic, and logistical challenges, including a prolonged intimidation campaign waged by insurgents. Nevertheless, more polling stations opened than in previous elections, the media and the public debated political alternatives, and the election followed the constitutional process.

Incumbent President Hamid Karzai and his main challenger, Abdullah Abdullah, both claimed victory ahead of the official verdict. After completing an audit and recount process that affected more than 3,300 polling stations nationwide, the Electoral Complaints Commission (ECC) invalidated nearly one million votes from the first-round election held in August, leaving incumbent Karzai with a final tally of 48.3 percent, just short of the constitutionally mandated 50 percent. Election officials scheduled a run-off for November 7. On November 1, Abdullah withdrew from the race, demanding major changes to guard against repetition of the reported widespread fraud in the August vote. Election officials declared President Karzai the winner.

International observers and civil society groups documented widespread instances of fraud, including ballot stuffing, ghost polling stations, and interference by staff of the IEC; fraud was especially notable in areas with high levels of insecurity, and insufficient female electoral staff and female election observers. Security arrangements were inadequate in many locations, and numerous irregularities occurred, including pervasive intimidation of voters and candidates, especially women. From August 20 through October 25, the ECC received approximately 2,800 complaints of electoral irregularities, of which 850 had the potential to affect the results of the presidential election, and 650 had a potential effect on provincial council elections. After conducting initial investigations, on September 8, the ECC ordered a nationwide audit and recount. Using a sampling method agreed upon by the ECC and the IEC, the IEC audited a sample of 300 polling stations nationwide and found that

58 to 96 percent of votes were invalid. After analyzing the complaints related to the presidential election, the ECC invalidated the results of 3,400 voting stations and found clear and convincing evidence of fraud at 1,900 other stations. According to the ECC, final numbers for voter turnout could only be estimated; approximately 1.2 million votes were invalidated from 4.5 million votes cast.

Two women ran for president and seven for vice president; 328 women ran for the 124 provincial council seats reserved for women, more than ever before. In some provinces open seats remained for women because not enough female candidates contested the election.

According to UNIFEM, of the 4.5 million newly registered voters, approximately 38 percent were female, although percentages could not be confirmed because there was no voter list. Both under- and over-registration of women were reported. Insecure access to registration stations and the lack of female staff led to underregistration. In some provinces local IEC officials ignored the physical presence requirement, issuing voter identity cards for women whose male family members registered them in absentia; 13 provinces where this practice was widespread showed higher-than-average rates of female registration. Women voted in separate polling stations from men, yet the lack of sufficient numbers of female election workers hindered women's participation. At some voting sites, women were turned away for lack of available female workers. There was evidence that men also proxy-voted on behalf of women in many cases, as occurred in 2004 and 2005.

Insurgents targeted civilians and election officials in a campaign to disrupt national elections. Insurgents killed 31 civilians, including 11 IEC officials, and injured 50, in at least 135 separate incidents of IEDs, small-arms clashes, and rocket and mortar attacks on election day. The UN reported there were as many as 300 such incidents. Night letters and direct threats were reported countrywide, including the threat to cut off fingers marked with voting ink. Some schools identified as polling places received threatening letters. Integrated Regional Information Networks (IRIN), of the UN Office for the Coordination of Humanitarian Affairs, reported that on election day, Taliban insurgents attacked at least 26 schools used as polling places. Insurgents attacked a school in Paktya province the night before the elections as well as a secondary school in the Zormat district in Paktya on election day because it was used as a polling site. Also in Paktya, insurgents fired rockets at two madrassas serving as polling centers. In addition, insurgents fired two missiles at a school being used as a polling center. There were with no casualties.

The MOJ recognized 84 accredited political parties. Political parties were not always able to conduct activities throughout the country, particularly in regions where antigovernment violence affected overall security.

Women active in public life faced disproportionate levels of threats and violence. Many female MPs and provincial council members reported death threats. Women were also the targets of attacks by the Taliban and other insurgent groups. Women who received threats often moved throughout the country to evade those harassing them. According to UNIFEM, a female candidate's Kabul office was ransacked and tarred. A female candidate in Takhar province received night letters and multiple death threats targeting her and her children; her office was also vandalized. Armed men attacked the house of a provincial election candidate in Jalalabad. According to a Human Rights Watch report, the number of women in the civil service decreased to 21.4 percent, from a high of 31 percent in 2006. Most female MPs reportedly experienced some kind of threat or intimidation; most believed that the state could not or would not protect them. Some female MPs stated that unless the security situation improved, they were unlikely to run in parliamentary elections scheduled for 2010.

On August 4, female activists launched the "5 Million Women Campaign" to support female political participation, to encourage women to run as candidates, and to urge them to vote in the 2009 and 2010 elections.

In 2005 citizens elected 249 members of the Wolesi Jirga, the lower house of the National Assembly, in an election the majority of citizens viewed as credible. The president and provincial councils selected members of the Meshrano Jirga, the upper house of the National Assembly.

As required by law, there were 68 women in the 249-seat Wolesi Jirga; 30 percent of seats are reserved for women. UNIFEM expressed concern that the quota was interpreted as a ceiling rather than a floor, limiting the number of women to 30 percent. There were 23 women in the Meshrano Jirga. One woman served in the cabinet. No women served on the Supreme Court Council. There were 203 female judges.

There were no laws preventing minorities from participating in political life; however, different ethnic groups complained they did not have equal access to local government jobs in provinces where they were in the minority. The law requires that

10 seats of the Wolesi Jirga be allocated to Kuchi nomads. Some members of parliament disagreed with this allotment, arguing that under the constitution all groups were to be treated equally.

*Section 4. Official Corruption and Government Transparency*

The law provides for criminal penalties for official corruption; however, the government did not always implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

Corruption was endemic throughout society. For example, in Helmand the ANP human rights director reported that promotion, job retention, and other rewards often were based on financial payment and nepotism. Prisoners and local NGOs reported that corruption was widespread across the justice system, particularly in relation to the prosecution of criminal cases and “buying” release from prison. Provincial police benefited financially from corruption at police checkpoints and from the narcotics industry.

A lack of political accountability and low salaries exacerbated government corruption. The international community worked with the national and provincial governance structures to address the issue of low salaries. Police mentors addressed problems of corruption among police and justice officials at provincial and district levels.

The government made efforts to combat corruption in the security apparatus. On April 18, the Attorney General’s Office established an Anti-Corruption Unit. Before the August 20 elections, the MOI trained and deployed more than 100 officers as provincial Inspectors General (IGs). Although their role was initially to investigate election-related claims against the police, they remained on duty after the election as general purpose IG officers. The MOI removed 12 senior officers for alleged corruption, along with 14 others. Merit-based promotion boards became functional during the year, with at least three candidates competing for each job; the process of instituting pay reform and electronic funds transfer for police salaries continued. The MOI continued to obtain training for its IG office.

On June 21, the MOI implemented an anticorruption program based on a 17-point action plan approved in March. The program included mentoring and development, tracking and reporting mechanisms for incidents of corruption and abuse, and support for merit-based promotion and asset declaration systems.

As in 2008, the government electronically direct deposited police and military salaries, making pay a more transparent and accountable process and less subject to corruption.

Observers alleged governors with reported involvement in the drug trade or past records of human rights violations received executive appointments and served with relative impunity.

The constitution provides citizens the right to access government information, except when access might violate the rights of others. The government generally provided access in practice, but officials at the local level were less cooperative to requests for information. Lack of government capacity also severely restricted access to information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Hundreds of local human rights NGOs operated independently and included groups focusing on women’s rights, media freedom, and rights of persons with disabilities. Government officials were generally cooperative and responsive to organization views. The government cooperated with international governmental organizations and permitted them to visit the country.

The lack of security and instability in parts of the country severely reduced NGO activities. Insurgent groups and the Taliban directly targeted NGOs during the year.

The constitutionally mandated AIHRC continued to address human rights problems and operated without government interference or funding. The AIHRC was effective in drawing attention to major human rights problems, publishing numerous reports on a range of topics.

President Karzai signed the Action Plan for Peace, Justice, and Reconciliation in 2006; however, the government did not take any affirmative action in support of transitional justice.

Three parliamentary committees deal with human rights in the Wolesi Jirga: the Gender, Civil Society, and Human Rights Committee; the Counternarcotics, Intoxicating Items, and Ethical Abuse Committee; and the Judicial, Administrative Reform, and Anticorruption Committee. In the Meshrano Jirga, the Committee for

Gender and Civil Society addresses human rights concerns. During the year these committees vetted several draft laws that went before the parliament and conducted confirmation hearings on several presidential appointees.

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

The constitution prohibits discrimination between citizens and provides for the equal rights of men and women; however, local customs and practices that discriminated against women prevailed in much of the country. The constitution does not explicitly address equal rights based on race, disability, language, or social status. There were reports of discrimination based on race, ethnicity, religion, and gender.

*Women.*—On July 19, President Karzai signed the SPSL, a civil law governing family and marital issues. The law applies only to the 20 percent of the population who are Shia. Some Shia groups hailed the law for officially recognizing the Shiite minority; however, the law was controversial both domestically and internationally for to its failure to promote gender equality. Articles in the law of particular concern include minimum age of marriage, polygamy, inheritance rights, right of self-determination, freedom of movement, sexual obligations, and guardianship.

On July 19, President Karzai signed the Elimination of Violence Against Women (EVAW) law, criminalizing violence against women, including rape, battery or beating; forced or underage marriage; “baahd” (the giving of a female relative to another family to settle a debt or dispute); humiliation; intimidation; and the refusal of food. Penalties include prison terms of less than six months to the death penalty. Victims have the right to prosecute abusers, seek shelter in a safe house, and receive medical and legal aid, but the law was seen as only a small positive step for women, as implementation was a concern.

Article 17 of the EVAW law specifically punishes rape with life imprisonment, and if the act results in death of the victim, the perpetrator shall be sentenced to death. The law punishes the “violation of chastity of a woman. that does not result in adultery (such as touching)” with imprisonment of up to seven years. Rape does not include spousal rape. Shari’a law, as interpreted in the local context and influenced by tribal customs, although uncodified, impeded successful prosecution of rape cases. The Koran does not specifically mention a punishment for rape, but under one interpretation of Shari’a, local tribal elders or religious leaders may treat rape as a form of adultery, punishable by stoning to death or 100 lashes of the whip, although there were no reports of such cases during the year. Under some interpretations of Shari’a, a woman who brings a charge of rape sometimes must produce four witnesses to prove that the rape occurred as a result of force. Accused men often claimed the victim agreed to consensual sex, which resulted in an adultery charge against the victim. The MOI reported 30 cases of rape in the country during the year, and the AIHRC reported 44 cases between January and September; the actual number of cases was probably much higher. The MOI reported 52 arrests in connection with rape cases. Statistics on convictions were unavailable. Rapes were difficult to document due to social stigma. Male victims seldom came forward. Peer sexual abuse was allegedly common; UNAMA Herat documented two rape cases in which the victims were three and four years old and the perpetrators were 14 and 20 years old. Female victims faced stringent societal reprisal, from being deemed unfit for marriage to being imprisoned. According to NGOs, authorities frequently raped women in prison.

The penal code criminalizes assault, and courts entered judgments against domestic abusers under this provision. According to NGO reports, hundreds of thousands of women continued to suffer abuse at the hands of their husbands, fathers, brothers, armed individuals, parallel legal systems, and institutions of state such as the police and justice systems. UNAMA reported a slight decline in cases of violence against women active in public life. A total of 1,708 cases were reported from January to September, compared with 2,322 for the same period in 2008; however, the number of incidents was believed to be underreported. Human Rights Watch reported that 87.2 percent of women had experienced at least one form of physical, sexual, or psychological violence or forced marriage in their lifetimes. Many elements of society tolerated and practiced violence against women. Killing and assault against women commonly involved family members as suspects. Women widely reported that they were victims of violence, especially sexual violence. Police response to domestic violence was limited, whether because of the crimes never being reported, sympathetic attitudes towards perpetrators, or limited protection for victims, even as witnesses to a serious crime.

Two NGOs that ran women’s shelters in Kabul reported an increase in referrals from police; however, an increase in referrals possibly reflected improved ANP training and awareness. Authorities rarely prosecuted abusers and only occasionally investigated complaints of violent attacks, rape, killings, or suicides of women. If cases

came to court, the accused were often exonerated or punished lightly. NGOs confirmed that domestic violence occurred in most homes but went largely unreported due to societal acceptance of the practice. Most domestic violence cases involved beating women and children. In some cases men burned their wives in an attempt to mimic self-immolation.

During the year 27 domestic violence prosecutions resulted in convictions in Herat. According to the MOJ, neither Ghor, Badghis, nor Farah provinces had domestic violence prosecutors; the penal code does not differentiate between domestic violence and battery and laceration cases. Most provinces reported only one or two domestic violence prosecutions per year. Women occasionally resorted to self-immolation when they believed there was no escape from their situations. During the first nine months of the year, the AIHRC documented 86 cases of self-immolation, in contrast to 72 cases in 2008. Other organizations reported an overall increase during the past two years. The burn unit of the Herat Regional Hospital, which draws patients from Farah and Ghor as well, reported receiving eight to 10 cases of self-immolation per quarter; 95 percent of the cases were female.

There were 11 women's shelters across the country, some run by MOWA and some by NGOs. MOWA and other agencies referred women to the centers, which provided protection, accommodation, food, training, and health care to women escaping violence in the home or seeking legal support due to family feuds. MOWA reported receiving two to three new domestic violence victims a month; however, space at the specialized shelters was limited. Women in need of shelter who could not find a place in the Kabul shelters often ended up in prison.

According to a UN High Commission on Human Rights (UNHCHR) report, "unaccompanied" women were not accepted in society, so women who could not be reunited with their family had nowhere to go. The difficulty of finding durable solutions for women who ended up in a shelter was compounded by the societal attitude toward shelters, linked to the perception of "running away from home" as a serious violation of social mores. The misapprehension that safe houses were a "safe haven" for immoral women forced them to operate nearly clandestinely and in a precarious security situation. In lieu of relying on shelters, girls who sought to escape violence at home were reportedly sometimes "married" or "engaged" to older men as a means of providing them with safety; observers noted that officials across the justice sector promoted and accepted this practice.

Policewomen trained to help victims of domestic violence complained they were instructed not to reach out to victims but to wait for victims to come to police stations. This significantly hindered their work, as reporting domestic violence was not socially accepted, and many women could not travel to police stations alone. UNAMA reported police leadership often did not provide female officers with equipment or vehicles to do outside investigations. The 42 Family Response Units (29 in Kabul, seven in Mazar, four in Kunduz, two in Bamiyan, and three opening in Jalalabad) were staffed primarily by female police officers who addressed violence and crimes against women, children, and families. The 897 women serving in civilian and ANP positions in the MOI (including 94 officers and 225 patrol officers) offered mediation and resources to prevent future domestic violence.

Women continued to face pervasive human rights violations and remained largely uninformed about their rights under the law. Discrimination was particularly acute in rural areas and villages.

Denial of educational opportunities, limited employment options, and ongoing security threats continued to impede the ability of many women to improve their situation, despite the progress women in urban areas made toward access to public life, education, health care, and employment. According to UNAMA, there was an increase of violence against women working in the public sphere. On April 12, Sitara Achakzai, an outspoken human rights defender and local councilor in Kandahar, was killed; the Taliban claimed responsibility, but those close to her believe the killing may not have been related to the insurgency and instead could have been motivated by other personal or political factors. She had received threats for weeks before her death and had informed government officials of the risk she faced. By year's end no arrests had been made for her killing.

Societal discrimination against women persisted, including domestic abuse, rape, forced marriages, forced prostitution, exchange of girls to settle disputes, kidnappings, and honor killings. Despite the constitutionally protected right to travel freely, many women were forbidden to leave the home except in the company of a male relative. Such cultural prohibitions meant that many women could not work outside the home, and often could not receive access to education, health care, police protection, and other social services.

In September, in Uruzgan province, a man maimed his 16-year-old wife, cutting off her nose and ears, allegedly because she had brought shame to the family by

running away after years of domestic violence; she was rescued by U.S. military forces, who found her abandoned in the mountains.

Ariana TV reported 39 cases of violence against women in Nimroz province from January to November. The Department of Women's Affairs in Baghlan province reported 74 cases of violence against women from January to November, compared to 67 cases in 2008, including six killings, three suicides, 10 runaways, 10 cases of food deprivation, eight forced marriages, seven broken engagements, and other cases of physical abuse. The head of the provincial appellate court in Baghlan province reported one case of female violence against another female. Extended family violence was reportedly widespread. On November 4, in Laghman, a mother-in-law reportedly poured gasoline on her 16-year-old daughter-in-law; the girl's clothes caught fire from the cooking stove. The U.S. military provided treatment for first-, second-, and third-degree burns from her chin to her waist and financial assistance to the family.

Although police, prosecutors, and judges discriminated against women in criminal and civil legal proceedings stemming from violence and forced marriages, increasing numbers of female attorneys successfully represented female clients in these types of cases in both formal courts.

According to Human Rights Watch and UNIFEM, more than 70 percent of marriages were forced and despite laws banning the practice, a majority of brides were younger than the legal marriage age of 16; the practice cuts across social, ethnic, religious, tribal, and economic lines. According to the UNHCHR, only 5 percent of marriages were registered, leaving forced marriages outside legal control. The AIHRC recorded 28 cases from January to September of women given to another family for "baahd," to settle disputes or as a debt settlement, although a presidential decree outlaws baahd. The unreported number was likely to be much higher. IRIN reported that drug smugglers often demanded young brides when farmers failed to produce opium and lacked other means to repay their loans. In a practice known as "badal," a brother and a sister are married to another pair of siblings to avoid any payment having to be made.

Local officials occasionally imprisoned women at the request of family members for opposing the family's choice of a marriage partner or being charged with adultery or bigamy. Women also faced bigamy charges from husbands who had deserted them and then reappeared after the woman had remarried. Local officials imprisoned women in place of a family member who had committed a crime but could not be located. Some women resided in detention facilities because they had run away from home to escape domestic violence or the prospect of forced marriage. Several girls between the ages of 17 and 21 remained detained in Pol-e-Charkhi prison after fleeing abusive forced marriages.

Given the early marriage age, some women become widows in their 20s and 30s. Since widows were perceived as their in-laws' property, they could be forced to marry a brother-in-law, who may already have a wife; the late husband's family seized any property he left.

The AIHRC documented 51 honor killings throughout the year; however, the unreported number was believed to be much higher.

Prostitution existed, although it is illegal. Many observers considered "temporary marriages" a form of prostitution. Temporary marriages lasted from one day to a few months, in exchange for a dowry.

There is no law specifically prohibiting sexual harassment.

Couples were free from government discrimination, coercion, and violence to decide the number, spacing, and timing of their children, but family and community pressures to reproduce, the high prevalence of child marriages, and lack of accurate biological knowledge limited their ability to do so. Oral contraceptives, intrauterine devices, injectables, and condoms were available commercially and through provincial hospitals. Men and women were equally diagnosed and treated for sexually transmitted infections, including HIV, when health care was available. NGOs reported that sexually transmitted diseases were widespread and typically went undiagnosed since most persons suffered from numerous untreated medical conditions.

Women who reported cases of abuse or who sought legal redress for other matters reported pervasive discrimination within the judicial system. Local practices were discriminatory toward women, and in parts of the country where courts were not functional or knowledge of the law was minimal, elders relied on an interpretation of Shari'a and tribal customs, which generally were discriminatory toward women. Most women reported limited access to justice in tribal shuras, where all presiding elders were men; women in some villages were not allowed any access for dispute resolution. Women's advocacy groups reported that the government intervened infor-

mally with local courts to encourage them to interpret laws in ways favorable to women.

MOWA and NGOs continued to promote women's rights and freedoms. According to UNIFEM, women made up 26 percent of government employees. The MOWA, the primary government agency responsible for addressing the needs of women, had provincial offices, but the organization suffered from a lack of capacity and resources. The provincial offices assisted hundreds of women by providing legal and family counseling and referring women they could not directly assist to relevant organizations.

Women and children were overwhelmingly the victims of preventable deaths due to illness. Of the 25,000 citizens who died from tuberculosis annually, 16,000 were women. Many households could afford neither the cost of health care nor transport to health-care facilities, and many women were not permitted to travel to health facilities on their own. Observers reported that 68 percent of the population had access to primary health-care centers within two hours' walking distance from their homes, an increase from 9 percent in 2002.

According to Save the Children and UNIFEM, the country had the second highest maternal mortality rate in the world. Only 14 percent of births had skilled attendants present, and only 12 percent of women received professional prenatal care. Early marriage and early pregnancy put girls at greater risk for premature labor, complications during delivery, and death in childbirth. Lack of skilled attendance during childbirth and lack of obstetric and postpartum care were key causes of maternal mortality. The number of trained midwives increased from 467 in 2002 to 2,500 during the year.

According to reports in the British medical journal *The Lancet*, both adults and children suffered from a broad spectrum of mental health problems, including depression, anxiety, and posttraumatic stress related to widespread social suffering and domestic violence as well as acts of war. Residents of Kabul were at greater risk, possibly stemming from social and economic stressors in the capital, including overcrowding, high living costs, widening inequalities, pressure on resources, and declining security.

According to Save the Children, although there was some diversity in household decision-making practices throughout the country, women generally exercised little decision making regarding marriage, timing of pregnancies, birthing practices, and child education. Informal social and familial pressure led the majority of women in rural areas to wear burqas, and most women wore head covering.

*Children.*—Citizenship is derived by birth within the country's territory and from one's parents.

Education is mandatory up to the secondary level (four years for primary school and three years for secondary), and the law provides for free education up to the college level.

According to UNAMA and the AIHRC, 6,139,101 students were enrolled in primary and secondary school. Boys made up nearly two-thirds of the school population. In most regions boys and girls attended primary classes together but were separated for intermediate and secondary-level education. Although the rate of secondary school for boys was 10 times the rate for girls, boys were legally identifiable as "heads of household" as young as age 15, and many boys were forced to leave school to work.

Due to insecurity, inadequate facilities, poor quality of education, severe shortages of female teachers, early and forced marriages, the perceived need for girls to work at home, and cultural pressures, the status of girls and women in education remained a matter of concern. According to Save the Children, only 5 percent of girls attended secondary school. In many families girls stopped attending school at age 11 or 12 because parents would not permit their teenage girls to be taught by adult men. Nearly 29 percent of all educational districts lacked girls' schools. Nearly 80 percent of educational districts and several provinces lacked secondary schools for girls due to lack of female teachers; the AIHRC reported there were only 216 girls' high schools in the country, most of them situated in the provincial centers. Girls' enrollment was as low as 9 percent in some areas. Since 2001 most girls enrolled in schools were the first generation in their family to receive formal education.

Violence impeded access to education in increasing sections of the country from 2008 through year's end, as the Taliban and other extremists, as well as criminal gangs, threatened or attacked schools, especially girls' schools, as well as school officials, teachers, and students. Where schools remained open, parents were often afraid to send their children, particularly girls. The MOE reported that approximately 40 percent of children were deprived of access to education; the AIHRC reported 26 percent. The AIHRC reported that half of schools did not have adequate, safe, and appropriate space for learning. Many new schools in rural parts of Khost

province were burned or destroyed; some communities hired their own security guards to protect their schools. In Kunduz province, according to the director of education, seven girls' schools closed, all in areas of high insurgent infiltration; the director stated that Taliban "policy" regarding girls' schools differed from place to place, and in some places the Taliban allowed schools to remain open. UNICEF reported from January to June there were 470 confirmed targeted attacks on education (schools, teachers, staff, and pupils), resulting in 30 deaths and 186 injuries to schoolchildren, teachers, and other school employees. The MOE reported to Human Rights Watch that unknown assailants poisoned 200 students; 196 were female. On July 9, in Logar province, a Taliban bomb near a school killed 25 persons, including 12 students.

According to a report by CARE, many schools were attacked repeatedly. Girls' schools were targeted more frequently than boys' or mixed-gender schools. Government schools were more frequently attacked than schools run by NGOs. Helmand, Kandahar, and Zabul provinces reported the highest number of closed schools. In Helmand province, for example, 180 schools, or 71 percent of the total, were inactive from March to July, but the MOE reopened 100 schools over the same period; by December only 58 percent of schools in Helmand were closed. Only one school in Helmand was attacked during the year.

In Uruzgan province, education officials stated that state schools were open but many unofficial schools were also in operation. Individuals opened schools inside their homes and recruited local mullahs as teachers. In the Khus Uruzgan district of Uruzgan province, official schools were closed after insurgents abducted and beat the teachers. There were no updates to the November 2008 acid attacks against female students in Kandahar. NGOs and aid agencies reported that insecurity, conservative attitudes, and poverty denied education to millions of school-age children, mainly in the southern and southeastern provinces.

Child abuse was endemic throughout the country, based on cultural beliefs about child-rearing, and included general neglect, physical abuse, sexual abuse, abandonment, and confined forced labor to pay off family debts. The Ministry of Labor, Social Affairs, Martyrs, and Disabled (MoLSA) stated that police frequently beat children. MoLSA reported that more than five million children lived in need of humanitarian assistance, and it recognized 23 categories of "Children Facing Threats," including forced marriage, trafficking, drug addiction, and neglect. During the year drought and food shortages forced many families to send their children onto the streets to beg for food and money. Police regularly beat and incarcerated children they took off the streets. NGOs reported a predominantly punitive and retributive approach to juvenile justice throughout the country. Although it was against the law, corporal punishment in schools, rehabilitation centers, and other public institutions remained common.

The legal age for marriage was 16 for girls and 18 for boys. International and local observers estimated that approximately 60 percent of girls were married younger than 16. Under the EVAW, those who arrange forced or underage marriages may be sentenced to imprisonment of not less than two years. Article 99 of the Law on Marriage states marriage of a minor may be conducted by a guardian. By law the marriage contract requires verification that the bride is 16 years of age; however, less than 10 percent of the population had birth certificates.

The custom of bride money may have motivated families facing poverty, indebtedness, and economic crisis to pledge daughters as young as six or seven, with the understanding that the actual marriage would be delayed until the child reached puberty. However, reports indicated that this delay was rarely observed, and that young girls were sexually violated not only by the groom but also by older men in the family, particularly if the groom was also a child.

Sexual abuse of children remained pervasive. NGOs noted that most child victims were abused by extended family members. A UNHCR report noted tribal leaders also abused boys. During the year the MOI recorded 17 cases of child rape; the unreported number was believed to be much higher. In January and February, the ANP arrested men in three separate cases of the rape of boys in Jowzjan province. According to the AIHRC, most child sexual abusers were not arrested. Numerous reports alleged that harems of young boys were cloistered for "bacha baazi" (boy-play) for sexual and social entertainment; although credible statistics were difficult to acquire, as the subject was a source of shame and "dancing boys" was a widespread culturally sanctioned form of male rape.

In extreme examples of child abuse, observers reported several instances of deliberately burned children in Paktya; the children sustained burns after their parents submerged them in boiling water.

The AIHRC reported the following incidents: in January in Mazar-Sharif, three men raped and killed a nine-year-old boy; the ANP later arrested the men. Also in



January in Jowzjan province, three adults raped a 15-year-old boy; the ANP arrested the men. In February in Jowzjan province, police made arrests in the rape cases of a four-year-old boy and a seven-year-old boy; police arrested the adult. In August in the Dihdadi district of Balkh province, a 28-year-old man raped a seven-year-old girl; police arrested the man.

Child pornography, reportedly widespread, is not specifically prohibited by law.

Children were used in armed conflict (see section 1.g.)

Children were displaced due to the conflict. NGOs estimated as many as one-third of all refugees were children.

NGOs estimated there were 60,000 street children in urban areas. Street children had little or no access to government services, although several NGOs provided access to basic needs such as shelter and food.

Living conditions for children in orphanages were unsatisfactory. The MoLSA operated 34 residential orphanages and 22 day-care centers, designed to provide vocational training to children from destitute families. There were 18 private orphanages in the country. NGOs reported that 60 to 80 percent of 4- to 18-year-old children in the orphanages were not orphans, but children whose families could not provide food, shelter, or schooling. Children in orphanages reported mental, physical, and sexual abuse; were sometimes trafficked; and did not always have access to running water, winter heating, indoor plumbing, health services, recreational facilities, or education.

*Trafficking in Persons.*—The 2008 antitrafficking law was published on July 15. There were reports that persons were trafficked to, from, through, and within the country. The country was a source for women and children trafficked predominantly to Iran and Pakistan for forced labor and commercial sexual exploitation. Children were trafficked internally for forced labor as beggars or for debt bondage in the brick kiln and carpet industries. Women and girls were kidnapped, lured by fraudulent marriage or job proposals, or sold into marriage or commercial sexual exploitation within the country and elsewhere. Boys as well as girls were victims of trafficking. Men were trafficked to Iran and Pakistan for forced labor and debt bondage, as well as to Greece for forced labor in the agriculture or construction sectors. The country was also a destination for women and girls from Iran, Tajikistan, and possibly China for forced prostitution. Sexual exploitation of boys, reportedly more widespread than sexual exploitation of girls, occurred in every region of the country, and internal trafficking was more widespread than cross-border trafficking. The MOI reported 75 cases of trafficking during the year.

The government took steps during the year regarding legislation, prosecution, prevention, and protection. In April the IOM and MOI signed an agreement establishing a cooperative framework to combat trafficking and assist victims of trafficking and other vulnerable migrants, expanding activities to six provinces: Nangahar, Helmand, Nimroz, Herat, Balkh, and Kunduz.

The IOM provided the MOI with countertrafficking technical support and capacity building, as well as help for victims. The IOM trained multiple law enforcement sectors, including the MOI, MOJ, ANA, ANP, border police, security agents, and the special unit for combating trafficking. The IOM assisted the MOI in developing a database on trafficking and organized crime and trained MOJ officials and judges, including members of the Supreme Court, in prosecution protocols in the six provinces.

The MOWA cooperated with NGOs that provide counseling and shelter to victims of trafficking. The IOM, in partnership with local NGOs, established the only shelter for victims of trafficking, providing reintegration assistance, including education and income-generating training.

Selling of children internally reportedly continued to occur. NGOs reported cases of false marriage, in which a girl was exchanged for a bride price to a buyer who intended to sell her. The Balkh Department of Labor and Social Affairs reported to the Child Protection Action Network that it was aware of several cases of unmarried women selling their newborns to health workers to avoid the social stigma of a giving birth outside of marriage or as a means of providing a stable future for the child. In July provincial authorities arrested one person in Tarin Kot bazaar in Uruzgan for selling a child. There were unconfirmed reports of similar cases in Kabul and in Kunduz province. There were no updates regarding the 2008 cases of child-selling.

The IOM was actively involved with the government in all aspects of countertrafficking, including protection, prevention, and prosecution. Adult victims were sometimes jailed.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The constitution prohibits any kind of discrimination against citizens and requires the state to assist persons who have disabilities and to protect their rights, including health care and financial protection. The constitution also requires the state to adopt measures to reintegrate and ensure the active participation in society of persons with disabilities.

The ICRC reported that accurate figures on the disabled population were not available, but estimated 800,000 mobility-impaired persons, of whom approximately 40,000 were limb amputees. MOLSA provided financial support to 88,000 persons with war-related disabilities. Fewer than 90 percent of persons with physical and mental disabilities had jobs. The AIHRC reported that of the nearly 200,000 school-age children with disabilities, only 22.4 percent attended school.

In the Meshrano Jirga, two seats for presidential advisors were reserved for persons with disabilities.

*National/Racial/Ethnic Minorities.*—There were no updates regarding the June 2008 violence between Hazara and the Kuchi nomads in Wardak province; however, ethnic tensions between the groups were reported in Ghazni province, fueled by conflicts over grazing rights, especially in the high passes in Jaghato, Nawur, and Kwaja Omari.

On September 22, the Shia Turi-Sunni Bushara tribes on Paktya's Pakistan border reached a negotiated settlement, but ongoing low-level violence threatened to reignite the two-year conflict. The Bushara villages were surrounded by Turi tribal lands, and the Turi people were frequent victims of insurgent attacks.

Ethnic tensions between Pashtun and non-Pashtun groups, particularly in the Moqur and Qadis districts, resulted in conflict and occasional killings. In February members of a Pashtun group killed Hafizollah, a prominent non-Pashtun, and several of his family members. In retaliation, members of the non-Pashtun group killed several Pashtuns. In September, non-Pashtuns assassinated a Pashtun leader, Mowin Gholan, in retaliation for the killing of Hafizollah.

Claims of social discrimination against Hazaras and other Shias continued.

On September 6, Deputy Minister of Defense Akram acknowledged to the parliament that linguistic and ethnic discrimination occurred in the ANA. Observers claimed that soldiers with former Northern Alliance affiliation actively discriminated against soldiers from the southern provinces. Soldiers also reportedly discriminated along ethnic lines when harassing drivers at checkpoints.

Confiscation and illegal occupation of land by powerful individuals, in some cases tied to the insurgency, caused displacement in some situations. Discrimination continued in some areas, in the form of extortion of money through illegal taxation, forced recruitment and forced labor, physical abuse, and detention.

Ethnic minorities continued to face oppression, including economic oppression. Dasht-i Barchi, one of Kabul's poorest neighborhoods, was home to a large Hazara population. Average earnings per day were 13 Afghanis (25 cents) per person, although the minimum wage was 63 Afghanis (\$1.25) per day; average household size was nine to 10 persons. In Dasht-i Barchi, 60 percent of all families rented their homes and were therefore subject to landlord exploitation; 50 percent of families' income went to cover rent, and families moved frequently.

Observers noted that groups of migrant workers in Paktya province were regularly attacked and robbed just after receiving their salaries and prior to their departure from the province. Labor violations against migrant workers were also common; many companies allegedly did not pay local laborers for months at a time.

NGOs reported that although Ismailis (a minority Shia Muslim group who follow the Aga Khan) were not generally targeted or seriously discriminated against, they continued to be exposed to risks.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law criminalizes homosexual activity; however, authorities only sporadically enforced the prohibition. Organizations devoted to the protection or exercise of freedom of sexual orientation remained underground. There were no reported instances of discrimination or violence based on sexual orientation, but social taboos remained strong.

*Other Societal Violence or Discrimination.*—There were no known instances of discrimination or violence against persons with HIV/AIDS, but there was reportedly high social stigma against persons with AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The 1987 Labor Code allows workers to join and form unions. The government allowed several unions, including Central Council National Union Afghanistan Employees, the largest, and several smaller unions to operate without interference. Implementation of labor laws remained a problem due

to lack of funding, personnel, political will, and central enforcement authority. Workers were not aware of their rights.

*b. The Right to Organize and Bargain Collectively.*—The law allows workers to join independent trade unions. The country lacked a tradition of genuine labor-management bargaining. Articles 137-146 of the labor law identify the Labor Dispute Settlement Commission as the body investigating labor disputes.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. There were reports that women and girls were given away as household laborers to another family to settle disputes and debts. Many employers subjected child laborers to sexual exploitation and forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—In July the 2008 labor code went into effect, setting the minimum age for employment at 18 years but permitting children 15 years and older to do “light work.” Children between ages 16 and 18 may work only 35 hours per week. Children 14 years and older may work as apprentices. Children younger than 13 were prohibited from work under any circumstances, although this law was not observed in practice. There was no evidence that authorities in any part of the country enforced child labor laws.

Child labor remained a pervasive problem. According to UNICEF estimates, at least 30 percent of primary school-age children undertook some form of work and there were more than one million child laborers younger than 14. The AIHRC reported that 43 percent of child laborers were younger than 12 and 35 percent were between 12 and 15. Many child laborers worked as domestic servants, street vendors, peddlers, or shopkeepers. Children worked in the worst forms of child labor in several sectors, including carpet weaving, brick making, and poppy harvesting. Children were also heavily employed in agriculture, mining (especially family-owned gem mines), and organized begging rings. Some sectors of child labor exposed children to land mines. According to the AIHRC, 85 percent of child laborers were boys, but this figure did not include the uncounted number of girls who perform domestic work in their homes. Many families stated that they needed the income their children provided, but many reportedly also believed that work was useful for children. MOLSA and the Aschiana Foundation reported approximately 60,000 child laborers in Kabul alone, the majority of whom migrated to the city from other provinces. Children faced numerous health and safety risks at work, and some of them sustained serious injuries such as broken bones.

Carpet weaving was especially dangerous for children, particularly in urban settings, as the enclosed spaces where they lived and worked exposed them to upper respiratory diseases, eyestrain, and spinal and muscular damage. Parents sometimes administered narcotics to their children to ease their physical pain. Children were considered suitable to learn carpet weaving at age five, and many children began working in this sector at an early age; families typically worked together weaving carpets, earning 1,500 Afghanis (\$30) per month for their efforts, well below the minimum wage.

In August the Afghan Ministry of Foreign Affairs launched its first report on the Convention of the Rights of the Child. The report recommended judicial and legal system reforms to ensure national compliance with international standards of child rights. The international community lauded the report as a milestone for children’s rights in Afghanistan.

*e. Acceptable Conditions of Work.*—In July President Karzai signed a law doubling the minimum wage to 4,000 Afghanis (\$80) for government workers. The minimum wage was 2,000 Afghanis per month (\$40) in the private sector, but in practice wages were not protected. The minimum wage did not provide a decent standard of living for a worker and family. Wages were determined by market forces, informal negotiation, or, in the case of government workers, dictated by the government. Many workers were hired as day laborers.

The law defines the standard workweek as 40 hours: eight hours per day with one hour for lunch and noon prayers. Reduced standard workweeks were stipulated for youth, pregnant women, nursing mothers, and miners and other occupations that present health risks. The law provides workers the right to receive wages, annual vacation time in addition to national holidays, compensation for injuries suffered in the line of work, overtime pay, health insurance for the employee and immediate family members, per diem for official trips, daily transportation, food allowances, night shift differentials, retirement rights, and compensation for funeral expenses in case of death while performing official duties. These standards were not

effectively enforced, and citizens generally were not aware of the full extent of their labor rights under the law.

There were no occupational health and safety standards and no enforcement mechanism. Employment was at will, and MOLSA did not enforce the existing legal protections for workers. Workers did not have the right to remove themselves from situations that endangered their health or safety without jeopardizing their employment, as all employment could be terminated without cause.

## BANGLADESH

Bangladesh is a parliamentary democracy of 155 million citizens. On December 29, 2008, the Awami League (AL) alliance led by Sheikh Hasina Wazed won 263 of 299 parliamentary seats in elections international and domestic observers considered to be free and fair, with isolated irregularities and sporadic violence. The elections and the peaceful transfer of power ended two years of rule by a military-backed caretaker government. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record improved somewhat due to the return of a democratically elected government and the repeal of the state of emergency. There was a slight increase in the number of extrajudicial killings by security forces; there remained cases of serious abuse, including extrajudicial killings, custodial deaths, arbitrary arrest and detention, and harassment of journalists. With the return of an elected government, reports of politically motivated violence increased 3.3 percent. The failure to investigate fully extrajudicial killings by security forces, including the deaths in custody of alleged mutineers from the Bangladesh Rifles (BDR) border force, remained a matter of serious concern. Some members of security forces acted with impunity and committed acts of physical and psychological torture. Violence against women and children remained a serious problem, as did trafficking in persons. Violence against religious and ethnic minorities still occurred, although many government and civil society leaders stated that these acts often had political or economic motivations and could not be attributed only to religious belief or affiliation.

On February 25-26, members of the BDR staged a mutiny, alleging poor pay and benefits, as well as corruption in the senior officer corps, which were drawn from the army. During the two-day mutiny, BDR soldiers killed 57 officers and 15 of their family members, including the director general and his wife. Security forces subsequently arrested more than 2,000 individuals allegedly involved in the uprising. The government announced plans to try them under the existing BDR Act, which carries a maximum prison term of seven years. Those charged with criminal acts were to be tried under the penal code in special tribunals. According to nongovernmental organizations (NGOs) and media reports, 59 BDR soldiers died while in police custody or in the BDR barracks. There were credible reports that many of the deceased had been tortured. To investigate these allegations, the government formed a committee, which concluded that only two members died as a result of torture. No other government action was taken.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Members of the security forces committed numerous extrajudicial killings. The police, BDR, military, and the Rapid Action Battalion (RAB) occasionally used unwarranted lethal force.

According to government statistics, there was a 3 percent increase in the number of killings by all security personnel, and the government did not take comprehensive measures to investigate these cases despite public statements by high-ranking officials that the government would show “zero tolerance” and would fully investigate all extrajudicial killings by security forces. The number of killings by the police and combined security forces also increased. According to the media and local human rights organizations, no case resulted in criminal punishment, and in the few instances in which the government levied charges, those found guilty generally received administrative punishment.

According to media reports, local and international human rights organizations, and the government, the RAB killed 41 persons during the year, from 68 the year before, a nearly 40 percent drop. The average number of such deaths dropped from six per month in 2008 to three per month during the year. Combined security units consisting of RAB members and police, however, killed 25 persons during the year.

The deaths, some under unusual circumstances, occurred during raids, arrests, and other law enforcement operations, or in some cases while the accused were in custody. The government often described these deaths as "crossfire killings," "gunfights," or "encounter killings," terms it used to characterize exchanges of gunfire between the RAB or police and criminal gangs.

According to media reports, local and international human rights organizations, and the government, law enforcement officials were responsible for 154 deaths, 129 of which were attributed to crossfire. According to reported figures, this total represented a 3 percent increase from the previous year. The RAB accounted for 38 crossfire killings; members of the police were responsible for 63; combined security units consisting of the RAB and police were responsible for 25; and the army committed three crossfire killings. Since 2004 when the minister for law, justice, and parliamentary affairs stated crossfire deaths under RAB or police custody could not be considered custodial death, the government has not disclosed publicly any prosecution of a RAB officer for a killing.

According to Ain O-Shalish Kendra (ASK), a leading human rights organization, 58 deaths occurred in custody during the year, including 30 deaths in prison.

For example, according to Odhikar on May 8, police officers and RAB members allegedly shot and killed Sayeedur Rahman Sayeed in a crossfire killing in Alamdanga, Chuadanga. Family members claimed police from the Islamic University Police arrested Sayeed on a bus along the Ujangram Bazar Road and transferred him to the Chuadanga RAB Six Camp. The RAB and police claimed they were conducting a raid on a cemetery where Sayeed and his accomplice were holding a meeting when the two men opened fire. The security forces allegedly returned fire, killing Sayeed. According to witnesses, no gunfight took place and the police and RAB staged the incident. Sayeed's body had two bullet wounds, broken bones above his right heel and left elbow, and additional wounds on his body.

On May 28, a team from RAB 2 allegedly killed two Dhaka Polytechnic Institute students, Mohammad Ali Jinnah and Mohsin Sheikh, in a shootout. On June 15, according to media reports, family members of the victims filed a case against 10 RAB personnel. Family members, fellow students, and teachers claimed Jinnah and Sheikh were members of the Bangladesh Chhatra League and did not have criminal records. The RAB claimed the two students were "criminals" and "muggers," and that they had stopped the students at a checkpoint for acting suspiciously. The metropolitan magistrate ordered the officer-in-charge of Tejgaon Police Station to investigate the case and submit a report by August 20. The officer-in-charge stated that he submitted the investigation report to the court and the matter was pending at year's end.

The government did not conduct further investigations into the alleged killing of Abdur Rashid Malitha and Nasima Akhtar Rikta by officers from RAB 12 in June 2008. According to Odhikar, relatives of Rikta did not speak out for fear of retaliation from security forces.

There were no further developments in the June 2008 killing of Anwar Hossain by police officers or the 2007 killing of Khabirul Islam by naval personnel.

The government did not take formal action to investigate the 2007 killing by army personnel in Madhupur of Choilesh Ritchil, an activist in one of the country's indigenous communities.

Deaths allegedly due to torture occurred while in police custody. According to Odikhar, on January 11, police from the Shahbajpur Police Camp arrested, allegedly tortured, and killed Nawab Ali of Bariakandi village. His body was recovered from a river near his home on January 14 with signs of trauma. Officials temporarily suspended the three police officers allegedly involved in the incident. Police stated they were conducting an internal investigation into the matter but after repeated inquiries from Odhikar, the investigating officer stated that the final report had been submitted three months earlier, and the investigation committee had concluded that Nawab Ali died from falling into the river.

On January 28, according to Odhikar, police from Chandgaon Police Station arrested, tortured, and killed Mohammed Habib and tortured his colleague Arif. According to police, the men were arrested on suspicion of importing drugs from India and were injured during their arrest. On the day of arrest, the police transferred the men between the police station and the hospital several times before producing them before court. Because Habib was ill, the court ordered hospitalization; however, on arrival at the hospital Habib was declared dead by doctors. Arif claimed police tortured both he and Habib for an extended period of time and that the torture may have caused Habib's death. He alleged that three police officers trampled on Habib's chest. Arif had visible injuries on his left hand and right leg. Following Habib's death, an "unnatural death case" was filed. According to the assistant police

commissioner of the Chittagong metropolitan police, the three officers involved were suspended. An investigation was ongoing at year's end.

According to media reports, 59 BDR members arrested in the wake of the February 25-26 mutiny died in custody. Family members of the victims alleged they died after being tortured. According to Odhikar, several BDR members taken into custody claimed the RAB and police physically assaulted and beat them, administered electric shocks, blindfolded them, and hung them upside down while in custody; NGOs alleged army personnel also were involved in custodial deaths. The government announced an investigation and promised to publish a report by July regarding the nature of the deaths but failed to publish any report. The government investigation ruled that only two members died due to torture and that the others died as a result of illness or suicide. At year's end the government had not taken any action regarding the deaths or allegations of torture.

On March 22, Nayak Mobarak Hossain, a detective in the BDR security unit of the 18th Rifle Battalion in Cox's Bazar, died at the Dhaka Medical College Hospital after soldiers allegedly assaulted him, according to his family. Hossain had been present in BDR headquarters during the mutiny. His wife alleged that on February 28, the army detained him, took away his phone, and did not allow him to contact his family. On March 18, Hossain allegedly telephoned his wife to say he was being kept in poor conditions and tortured, and if anyone attempted to communicate with him, he would be tortured further. Two individuals who saw Hossain's body confirmed severe bruising, swelling of limbs, injuries to both palms, and broken joints. They also claimed that marks on his body indicated that burnt needles were inserted into his fingers. The local magistrate who presided over the autopsy did not reveal any further details. A local police subinspector in Dhaka, who was present at the medical examination, opened a murder investigation. The case was ongoing at year's end.

The government did not conduct any further investigations into the alleged March 2008 death by torture of Abul Hossain Dahli by police in Botiyaghata.

On May 25, according to Odhikar, following a petition from the victim's father, the chief judicial magistrate ordered local police to file a case against 16 officers from RAB 8 who allegedly tortured to death Afzal Khan in 2008. Khan's father reported receiving various threats from the accused.

There were no new developments in the April 2008 death of Fakir Chan in police custody in Maulvibazar. Chan's widow told Odhikar she was not financially able to pursue any legal case against his alleged killers.

Politically motivated violence resumed following the end of the state of emergency, with opposition party supporters claiming harassment by ruling party supporters. Motivations for the violence often were unclear. According to Odhikar, 251 deaths were suspected of being politically motivated, compared to 50 the previous year.

On June 19, seven to eight unknown assailants abducted and killed opposition Bangladesh Nationalist Party (BNP) member Manju Morshed Shipu in Mohammadpur, Dhaka. Witnesses claimed the men abducted Shipu while he was returning home on the night of June 18. Several hours later, guards saw a microbus drive into a school playground, heard a gunshot, and subsequently found Shipu's body. According to police, Shipu had been shot in the left side of the forehead, and there were marks of beating on his arms, back, and feet. Marks on his hands, feet, and eyes indicated he had been bound and blindfolded. According to Shipu's wife, he was a potential candidate for ward commissioner in the city corporation elections. She believed his murder was politically motivated and filed a case with the Mohammadpur police station on June 20. There were no further developments by year's end.

There were no further developments in the July 2008 killing of Moshikul Alam Sentu, allegedly by officers from RAB 8. According to Odhikar, Sentu's mother claimed she tried to file a case against the RAB, but no lawyers would take it out of fear the RAB would target them.

There was no further investigation into the July 2008 killing of Mizanur Rahman Tutu by police officers. Family members told human rights groups they did not file a case.

At year's end authorities had not carried out death sentences in the case of three individuals from the banned Islamist organization Harkatul Jihad al Islami (HuJi) who were tried in 2007 for organizing a grenade attack at the Hazrat Shahjalal Shrine in Sylhet in 2004. Two others sentenced to life imprisonment were serving their sentences.

There also were a significant number of reports of killings involving political party supporters.

On May 8, according to media reports, one person died and at least 15 others were injured in a clash between AL and BNP activists in Hagrahari village, Lalpur

upazila (subdistrict). The two groups reportedly attacked each other with firearms and sharp weapons.

There were no developments in the February 2008 killing of Mohammad Farman Ali by political rivals or the death of an individual following gunfire between AL and BNP activists.

Vigilante killings remained a problem during the year, although figures suggested that the problem had lessened or remained the same. Odhikar reported at least 90 killings, but local human rights organizations also acknowledged that the number of reported cases probably represented only a fraction of the actual incidents. The most recent figures are from 2008 when there were 163 reported vigilante killings.

On July 2, a mob killed a suspected robber in Naranpar village in Comilla. The deceased was identified as Yakub Hossain alias Tetu Miah.

On September 14, according to press reports, a mob beat a carjacker to death and critically injured during an attempted carjacking in the Pallabi area of Dhaka. A third person fled the scene. According to Pallabi police, the three men shot the driver during the robbery attempt. There was no investigation at year's end.

On November 15, according to the Daily Star, a mob beat to death Badsha Bhai, an alleged regional leader of an outlawed faction of Purbo Banglar Communist Party in Roypur village in Gangni upazila. According to police, 15 "village watchers" chased Badsha as he was walking in the village and beat him. Police took Badsha to Meherpur General Hospital where he was declared dead.

There were no further investigations into the March 2008 vigilante killings in Nasirabad and Kaliakoir, near Dhaka.

Violence along the border with India remained a problem, and the number of incidents increased by nearly 63 percent from the previous year. According to human rights organizations, the Indian Border Security Force killed 96 citizens during the year.

*b. Disappearance.*—Disappearances and kidnappings remained problems during the year, but precise figures were unavailable. At least some of these kidnappings were politically motivated, although many were often for money or as a result of localized rivalries.

On August 22, a group of local armed criminals kidnapped nine members of an extended family from their house in Dhaka and held them in a nearby engineering workshop. After eight hours, police located them and arrested 16 men who were charged several with kidnapping. The cases were pending at year's end. Police suspected the criminals were using the kidnapping as an attempt to coerce the family into giving up their land.

There were no further developments in the September 2008 kidnapping of 40 fishermen from the Kachikhali coast of Pathorghata. There were no developments in the November 2008 disappearance of Liakat Hossain, allegedly involving members of the RAB.

The government did not take any steps to investigate the 2007 kidnapping of two Danish aid agency employees.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution prohibits torture and cruel, inhuman, or degrading punishment, security forces including the RAB, military, and police frequently employed severe physical and psychological abuse during arrests and interrogations. According to figures provided by human rights organizations, the use of such techniques dropped in 2008 but increased during the year. Abuse consisted of threats, beatings, and the use of electric shock. According to human rights organizations, security forces tortured at least 68 persons. The government rarely charged, convicted, or punished those responsible, and a climate of impunity allowed such abuses by the RAB, police, and military to continue.

On June 4, according to Odhikar, Kahalu police in Bogra arrested and tortured the president of the student wing of the BNP, Morshed Habib Bhuiyan Jewel, in Netrokona district. Jewel alleged that several times while in custody at the Netrokona Model Police Station three to four police officers blindfolded him, suspended him from the ceiling with handcuffs, and beat him with sticks from the waist down. According to Jewel, police also poured hot water into his nose and mouth. Netrokona police claimed Jewel was a suspect in a murder case and that they were interrogating him. Witnesses and the victim claimed police arrested him due to his political affiliation. Jewel remained in jail at year's end.

There were no developments in the 2007 torture cases of Shahidul Islam, Mohammad Jamal Uddin, and Mohammad Kajol.

According to human rights organizations, there were at least three recorded incidents of rape and sexual abuse by law enforcement personnel.

For example, on February 28, according to Odhikar, four police constables gang-raped a member of an ethnic minority group in the Chittagong metropolitan area.

There were no new developments in the July 2008 rape of a 14-year-old girl in Sonargaon, Narayanganj, allegedly by RAB officer Abdul Gaffur. Gaffur was under arrest and awaiting trial at year's end. There was no further investigation into the July 2008 rape of a young girl at Kamlapur Dhaka, allegedly by police subinspector Rezaul Karim.

*Prison and Detention Center Conditions.*—Prison system conditions remained abysmal due to overcrowding, inadequate facilities, and lack of proper sanitation. Human rights observers believed these conditions contributed to custodial deaths. Unlike in the previous year, there were no accounts of security forces holding detainees in ad hoc or military detention facilities.

According to Odhikar, 48 persons died in prison and 31 persons died in the custody of police and other security forces during the year.

According to the government, the existing prison population at year's end was 71,880, or more than 250 percent of the official prison capacity of 28,668. Of the entire prison population, approximately one-third of the detainees had been convicted. The rest were either awaiting trial or detained for investigation. Due to the severe backlog of cases, individuals awaiting trial often spent more time in jail than if they had been convicted and served a maximum sentence. In most cases, prisoners slept in shifts because of the overcrowding and did not have adequate bathroom facilities.

The law requires that juveniles be detained separately from adults, but in practice, many juveniles were incarcerated with adults. Approximately 347 children were imprisoned (some with their mothers) despite laws and court decisions prohibiting the imprisonment of minors. In some places, the figure was much higher, mainly because there was no proper means of recording age in the criminal justice system. According to statistics from the 2008 International Centre for Prison Studies report, minors made up 0.4 percent of the prison population.

Although the law prohibits women in "safe custody" (usually victims of rape, trafficking, and domestic violence) from being housed with criminals, in practice separate facilities were not always available.

In general the government did not permit prison visits by independent human rights monitors, including the International Committee of the Red Cross. Government-appointed committees composed of prominent private citizens in each prison locality monitored prisons monthly but did not release their findings. District judges occasionally visited prisons but rarely disclosed their findings.

In 2008 the inspector general of prisons tried to address prisoner morale by allowing low-level offenders to meet family and friends inside jail cells without any physical barriers between them. There were few additional efforts to improve the prison system during the year.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention; however, the law permits authorities to arrest and detain persons suspected of criminal activity without an order from a magistrate or a warrant.

In December 2008 the president promulgated the Emergency Power (Repeal) Ordinance to revoke the state of emergency that had been declared in 2007. Under the state of emergency, the government promulgated the Emergency Power Rules (EPR), which gave the government authority to detain citizens without filing formal charges or specific complaints. In repealing the state of emergency, the ordinance specified that, although cases brought under the EPR would continue to have validity, pending cases would be conducted under the traditional rules and laws.

According to official government statistics, the police arrested 50,787 persons during the year. Of those arrested, 15,894 were detained without arrest warrants or convictions.

On March 21, police arrested former deputy speaker of parliament and opposition member Akhtar Hamid Siddiqui in the Naogaon district. The officer in charge of the Mohadebpur Police Station alleged Siddiqui had threatened him. Siddiqui was sentenced to one month's detention order under the Special Powers Act of 1974.

*Role of the Police and Security Apparatus.*—Police are organized nationally under the Ministry of Home Affairs (MOHA) and have a mandate to maintain internal security and law and order. Under recent governments, police were generally ineffective and reluctant to investigate persons affiliated with the ruling party. The government ended its use of the joint forces security structure formed in 2007 under the state of emergency and composed of police, the RAB, members of the military, and other security agencies. Unlike the previous year, the military intelligence agency, the Directorate General Forces Intelligence (DGFI), did not take the lead in maintaining law and order as it had under the state of emergency.



The RAB received human rights training sponsored by foreign governments, the UN Development Program, and a local NGO, the Bangladesh Society for Enforcement of Human Rights (BSEHR). Although the RAB continued to commit serious human rights violations, the number of incidents involving the RAB dropped from the previous year.

The government took steps to address widespread police corruption and a severe lack of training and discipline. The inspector general of police continued to implement a new strategy, partially funded by international donors, for training police, addressing corruption, and creating a more responsive police force.

Plaintiffs rarely accused police in criminal cases due to lengthy trial procedures and the fear of retribution. Reluctance to confront police perpetuated a climate of impunity.

*Arrest Procedures and Treatment While in Detention.*—The law provides for arrest without the use of warrants in certain cases. Section 54 of the Criminal Procedure Code and Section 100 of the Dhaka Metropolitan Police Ordinance authorize detention of persons on suspicion of criminal activity without an order from a magistrate or a warrant, and the government regularly used such provisions. The number of preventive and arbitrary arrests declined from the previous year when the state of emergency was in effect.

Unlike in previous years under the caretaker government, the new government did not carry out mass arrests. ASK, a domestic human rights organization, and media outlets estimated that authorities made more than 2,000 routine arrests daily. The majority of those arrested were released within one or two days, often on payment of a bribe.

Under the existing Special Powers Act, the government or a district magistrate may order a person detained for 30 days to prevent the commission of an act that could threaten national security; however, authorities held detainees for longer periods. The magistrate must inform the detainee of the grounds of detention, and an advisory board is required to examine the detainee's case after four months. Detainees had the right to appeal. Many detainees taken into custody during the caretaker government's anticorruption drive were held under this act, and the government sought and received numerous detention extensions from advisory boards consisting of two judges and a government official. Use of the provisions of the Special Powers Act declined during the year.

There was a functioning bail system in the regular courts. For example, the courts granted bail to many of the officials and former officials accused of corruption.

Most criminal detainees charged with crimes were granted access to attorneys. The government rarely provided detainees with state-funded defense attorneys, and there were few legal aid programs for detainees. Government-funded legal aid programs received little funding, and there were no efforts to expand those programs during the year.

The government generally permitted lawyers to meet with their clients only after formal charges had been filed in the courts, which in some cases occurred several weeks or months after the initial arrest. Arbitrary arrests were common, and the government held persons in detention without specific charges, often to collect information about other suspects.

Arbitrary and lengthy pretrial detention continued to be a problem. There were an estimated two million pending civil and criminal cases. A 2008 estimate from the International Centre for Prison Studies found nearly 70 percent of prison inmates were in pretrial detention.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, but in practice a longstanding temporary provision of the constitution placed the executive in charge of the lower courts, judicial appointments, and compensation for judicial officials. In 2007 the caretaker government implemented legislation the previous government had developed separating the judiciary from the executive, and that legislation remained in effect throughout the year.

The court system has two levels: the lower courts and the Supreme Court. Both hear civil and criminal cases. After the separation of the judiciary from the executive, the government appointed judicial magistrates to replace the executive magistrates who had presided over the lower courts. Although executive magistrates still exist, their powers are restricted, and they are only appointed in specific circumstances; for example, executive magistrates were appointed to administer the mobile court system to look at issues of food adulteration and quality. The Supreme Court has two parts, the high court and the appellate divisions. The High Court Division hears some original cases mostly dealing with constitutional issues, and reviews cases from the lower courts. The Appellate Division hears appeals of judg-

ments, decrees, orders, or sentences of the High Court. Rulings of the Appellate Division are binding on all other courts.

On July 15, the government appointed four new judges to the Appellate Division. Members of the legal community criticized the appointment of one of the judges, which superseded the appointment of a more senior judge of the High Court Division. According to government officials, the appointments were made because the additional judges were necessary to dispose of the large numbers of cases pending in the Appellate Division.

In September 2008 the Appellate Division resumed the practice of overturning politically charged decisions by the High Court Division, usually to the benefit of the current AL government. In at least two cases, the Appellate Division overturned decisions granting bail to high-level corruption suspects who were leaders of opposition parties. Additionally, corruption, judicial inefficiency, lack of resources, and a large case backlog remained serious problems with the judiciary.

The EPR authorized the government to create special speedy anticorruption courts to adjudicate cases prosecuted by the Anticorruption Commission (ACC). Sentences from these tribunals could also be appealed to the High Court. During the year, the repeal of the EPR led to the demise of these courts.

In 2005 a High Court panel judged unconstitutional an amendment to the constitution that legitimized martial law in the 1980s. The prime minister's office arranged for a stay of the ruling because of its ramifications for the legacy of former president Ziaur Rahman, the late husband of the then prime minister. The case remained in the Appellate Division at year's end.

*Trial Procedures.*—The law provides accused persons with the right to be represented by counsel, to review accusatory material, to call or question witnesses, and to appeal verdicts. Cases are decided by judges rather than juries, and trials are public. In practice a public defender is rarely provided to defendants. Defendants are presumed innocent and have the right to appeal, to be present and to see the government's evidence.

Corruption and a substantial backlog of cases hindered the court system, and trials were typically marked by extended continuances, effectively preventing many from obtaining a fair trial due to witness tampering, victim intimidation, and missing evidence. Human rights observers contended magistrates, attorneys, and court officials demanded bribes from defendants in many cases filed under the Special Powers Act during the year.

*Political Prisoners and Detainees.*—The caretaker government detained more than 150 high-ranking politicians, businessmen, and officials as part of its anticorruption campaign. The courts released most of these persons in 2008.

According to media reports, during the year the government withdrew 1817 allegedly "politically motivated" cases that had been filed under the regular penal code and the Anticorruption Commission Act. Most of the cases withdrawn involved ruling party politicians.

During the year, under a new chairman, the ACC filed a money laundering case against Koko Rahman, the son of BNP leader Khaleda Zia. A separate money laundering case was also filed against Koko Rahman and Khaleda Zia's other son, Tarique Rahman. In 2008 the ACC and the public prosecutor prosecuted a total of 228 cases against high-ranking political officials, ranging from extortion and money laundering to murder.

Former law minister Moudud Ahmed and former communications minister Anwar Hossain Manju remained free on bail, although their cases remained in process. Ahmed refused the government's offer to drop the cases against him, and Manju continued to appeal two of his three sentences. The metropolitan public prosecutor decided to withdraw one of the cases against Ahmed for possessing alcohol at his residence in 2007. The High Court threw out one of Manju's convictions.

The trial continued against journalist Salah Uddin Shoaib Choudhury, detained for his attempted 2003 travel to Israel. The government allowed Choudhury to travel abroad while the case was pending.

During the year, the new government began to identify and withdraw allegedly "politically motivated" cases initiated under the caretaker government. The government set up an interministerial committee to review the applications of individuals alleging cases filed against them were politically motivated. Initially, the majority of the cases recommended for withdrawal appeared to be those brought against AL members. However, in August and September the committee recommended withdrawal of cases against BNP members Moudud Ahmed and Tarique Rahman.

*Civil Judicial Procedures and Remedies.*—Administrative as well as judicial remedies are available for alleged wrongs. The government did not interfere with civil judicial procedures. Corruption and outside influence were problems in the civil ju-

dicial system. Alternative dispute resolution for civil cases allows citizens to present their cases for mediation. According to government sources, wider use of mediation in civil cases quickened the administration of justice, but there was no assessment of its fairness or impartiality.

*Property Restitution.*—During the year the government took measures to implement the 2001 Vested Property Return Act, providing for property restitution to persons, mostly Hindus, whose property the government seized after the 1965 India-Pakistan war. On November 2, the cabinet approved the Vested Property Return (Amendment) Act, which set a time limit for the government to produce a list of lands seized under the Vested Property Act. Members of religious minorities welcomed the new act but argued it needed to be amended to expand the definition of who could inherit properties and to bar political leaders involved in the seizure of land from determining how the lands would be returned to their original owners. The bill was before parliament at year's end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law allows intelligence and law enforcement agencies to monitor private communications with the permission of the chief executive of the MOHA. According to media reports, the government established a national monitoring center made up of representatives from law enforcement and intelligence agencies to monitor and coordinate phone taps in 2008. Media and human rights groups complained that the government continued to employ the practice of illegal phone tapping. Police rarely obtained warrants as required, and officers violating these procedures were not punished. Human rights organizations indicated that the special branch of the police, National Security Intelligence, and the DGFI employed informers to conduct surveillance and report on citizens perceived as critical of the government.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and press, but the government occasionally did not respect these rights in practice.

Although public criticism of the government was common, newspapers depended on government advertisements for a significant percentage of their revenue. As a result, newspapers practiced self-censorship on some issues.

There were hundreds of daily and weekly independent publications. Although there were significant improvements over the previous year, newspapers critical of the government experienced some government pressure. Journalists perceived to be critical of the government and those aligned with the opposition alleged harassment from unspecified wings of the security forces and members of the ruling party. In addition to one official government-owned news service, there were two private news services.

Unlike in the previous year, the military's Inter-Service Public Relations (ISPR) office and the DGFI did not directly restrict newspaper ownership or content. However, journalists reported the military cautioned them against criticizing the government or the military, especially in the aftermath of the BDR mutiny. Matiur Rahman Chowdhury, editor of Manabzamin and host of two television talk shows, stated in the English language New Age that officials told him indirectly to refrain from inviting specified guests during the BDR incident. He also said tapes for a particular talk show were taken from station several hours before the show was scheduled to be broadcast.

The host of a popular Bengali-language current affairs talk show, Point of Order, alleged she received phone calls from individuals identifying themselves as DGFI officials who warned her against promoting "antigovernment and antistate propaganda." She also said sponsors of her program had been encouraged to stop their support of her show.

The government owned one radio and one television station. The parliament passed a law mandating that the public television station, BTV, remain the country's only terrestrial broadcast channel. An estimated 60 percent of the population did not have access to private satellite channels.

There were 10 private satellite television stations and three private radio stations in operation. There were two foreign-based and licensed satellite television stations that maintained domestic news operations. Cable operators generally functioned without government interference. The government required all private stations to broadcast, without charge, selected government news programs and speeches by the prime minister.

The 24-hour all-news television station, CSB, which the government shut down in 2007, purportedly for not having a proper license, remained closed at year's end.

Attacks on journalists continued to be a problem. There was an increase in individuals affiliated with the government or ruling party harassing, arresting, or assaulting journalists. According to Odhikar and media watchdog groups, at least

three journalists were killed, 84 were injured, one was arrested, 45 were assaulted, 73 were threatened, and 23 had cases filed against them during the year. According to some journalists and human rights NGOs, journalists engaged in self-censorship for fear of retribution from the government.

On January 1, following the parliamentary elections, activists of the AL's student wing, the Chhatra League, harassed and threatened with death Dhaka University correspondents of the Bengali and English publications Daily Sangbad, Janakantha, BDNews24.com, Destiny, and Janatar Chokh. The activists ransacked the reporters' rooms, destroyed their valuables, and threatened to kill them. No action was taken against the alleged vandals.

On September 1, according to Odhikar, two Chattra League activists attacked and ransacked a store owned by the Chuadanga representative of the daily Amar Desh, reportedly in retaliation for a report published in the paper criticizing an AL member of parliament (MP). The activists set fire to the store and burned copies of Amar Desh. Members of the Chattra League then ransacked the store owner's home and assaulted his wife and children. Chattra League and Jubo League members also ransacked the business of the Chuadanga representative of the daily Janakantha and the home of the local representative of the daily Prothom Alo.

On October 22, officers of RAB 10 arrested F.M. Masum, a reporter for the English-language daily New Age from his home in Jatrabari, near Dhaka. According to New Age and the Asia Human Rights Commission (AHRC), RAB members beat Masum with iron rods, wooden sticks and the blunt sides of machetes and rubbed salt into his wounds, allegedly because he had worked on several news stories on extrajudicial killings committed by the battalion and its involvement in the fight against drugs. Staff from New Age alleged Masum was targeted because he had written about violence against journalists. The home minister ordered RAB 10 to release Masum, and RAB officials announced an investigation into the matter. After the incident, RAB officials gave varying accounts of the reason for Masum's detention, including that he had been found in possession of drugs and that he was found with prostitutes. However, when Masum was released, RAB officials stated he had been arrested for not cooperating with the law enforcement agency. RAB headquarters released a statement expressing regret for the incident and transferred one of the officers involved. No further action was taken at year's end.

There were no developments in the March 2008 case of Rabiul Islam, a journalist for the Rajshahi-based Bengali language Daily Sunshine who was allegedly tortured by local police.

The government took no further action in the May 2008 assaults against Daily Star correspondents Mirza Shakil and Iasinur Rahman.

There were no new developments in the case of Jahangir Alam Akash, who reportedly was tortured by authorities in November 2008. Akash ran his own blog devoted to press freedoms and human rights during the year.

There were no developments in the case of the Jai Jai Din editor who was fired in July 2008 because he published a cartoon critical of then Army Chief General Moeen Uddin Ahmed.

The trial court dismissed charges against accused teachers and students in the 2007 attack on journalists at Dhaka University. Tasneem Khalil, former Daily Star journalist and researcher for Human Rights Watch, continued to live in exile in Sweden following his 2007 interrogation and torture by joint forces.

Unlike in previous years, the government did not subject foreign publications and films to stringent reviews and censorship. A government-managed film censor board reviewed local and foreign films and had the authority to censor or ban films on the grounds of state security, law and order, religious sentiment, obscenity, foreign relations, defamation, or plagiarism, but this was less strict than in the past. In practice video rental libraries and DVD shops stocked a wide variety of films, and government efforts to enforce censorship on rentals were sporadic and ineffective.

Unlike in the previous year, the government only rarely exercised censorship in cases of immodest or obscene photographs, perceived misrepresentation or defamation of Islam, or objectionable comments regarding national leaders.

There were no developments regarding the 2007 decision to ban Alpin, the satirical weekly magazine of the newspaper Prothom Alo, due to alleged blasphemy against Islam.

Unlike in previous years, the government did not use defamation charges to curb freedom of speech.

There were no developments in the 2007 defamation lawsuit filed by Mah Selim against Juganthor newspaper.

*Internet Freedom.*—Although individuals and groups generally could engage in the peaceful expression of views via the Internet, local human rights organizations reported continued government monitoring of Internet communications. The most re-

cent figures from the World Bank indicated that 5.8 percent of the population used the Internet in 2008. On March 9, the Telecommunications Regulatory Commission, the country's Internet regulatory body, blocked YouTube and several other Web sites for posting a recorded conversation between Prime Minister Hasina and angry army officers following the BDR mutiny. The restriction was lifted on March 21 after a public outcry.

*Academic Freedom and Cultural Events.*—The government did not limit academic freedom or cultural events; however, media groups reported that authorities discouraged research on sensitive religious and political topics.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice. The lifting of the state of emergency in December 2008 restored these rights to citizens.

*Freedom of Assembly.*—Restrictions on holding rallies and processions ended with the withdrawal of the state of emergency in December 2008. The new government generally permitted rallies to take place but on occasion used Section 144 of the Criminal Procedure Code to prevent opposition political groups from holding meetings and demonstrations. Section 144 authorizes the administration to ban assembly of more than four persons; according to ASK, the administration used this provision at least 82 times during the year. At times police or ruling party activists used force to break up demonstrations.

On July 5, according to media reports, the police arrested two individuals and used force against 17 others demonstrating in front of the Indian High Commission in Dhaka against the planned construction of the Tipaimukh Dam in India. The operation to break up the group of protestors, who were allegedly demonstrating peacefully, involved approximately 100 police officers.

On August 19, the district administration in Manikganj invoked Section 144 of the law to prohibit a rally organized by the opposition BNP. Authorities cited the potential for violence because the local branch of the ruling AL's student wing had announced a simultaneous rally.

On September 2, according to media reports, police used force against demonstrators as they marched toward the headquarters of the Mineral, Oil, and Gas Corporation to protest the decision to lease off-shore energy blocks to foreign companies for oil and gas exploration. The subsequent clashes between the protesters and the police left approximately 30 persons, including 10 police officers, injured. The Home Ministry issued a statement expressing regret for the attacks on the procession and ordered an inquiry into "any police excesses."

Local officials used Section 144 prior to planned council meetings of the BNP to prevent clashes either between BNP and the ruling party or among rival factions of BNP. On December 22, ruling party activists and the police attacked individuals at a reception in honor of Moyeen Khan's selection as a party leader. BNP supporters clashed with the police and AL supporters, causing dozens of injuries. According to ASK, ruling party activists initiated the clash.

*Freedom of Association.*—The law provides for the right of every citizen to form associations, subject to "reasonable restrictions" in the interest of morality or public order, and the government generally respected this right. Individuals were free to join private groups. Unlike the previous year under the state of emergency, trade unions were able to conduct their normal activities.

*c. Freedom of Religion.*—The constitution incorporates elements of Islam but stipulates the right—subject to law, public order, and morality—to profess, practice, or propagate the religion of one's choice. The government generally respected this right in practice. Religion shaped the platforms of some political parties, but the government was sensitive to the religious sentiments of most citizens. Violence against religious and ethnic minorities was a problem occasionally. Discrimination against members of religious minorities, such as Hindus, Christians, and Buddhists, existed at both the governmental and societal levels, and religious minorities were disadvantaged in practice in such areas as access to government jobs, political office, and justice. The secular AL government, however, appointed some members of the minority communities to senior government and diplomatic positions. In the new cabinet, three of the 38 ministers were non-Muslims.

Shari'a (Islamic law) was not implemented formally and not imposed on non-Muslims, but it played an influential role in civil matters pertaining to the Muslim community. The Muslim Family Ordinance codifies issues such as inheritance, marriage, and divorce for registered marriages of members of the Muslim community. A Muslim man may marry as many as four wives; however, a Muslim man must get his first wife's signed permission before taking an additional wife. Society strongly discouraged polygamy and it was rarely practiced.

Family laws concerning marriage, divorce, and adoption differed slightly depending on the religion of the individuals involved. Each religion had its set of family laws. Under Hindu law, unlimited polygamy is permitted, and although there is no provision for divorce or legal separation, Hindu widows may legally remarry. There were no legal restrictions on marriage between members of different faiths.

As in the previous year, government protection of Ahmadiyyas, an Islamic group, continued to improve, although social discrimination continued and there were sporadic cases of harassment. The High Court continued to stay the government ban on publishing Ahmadiyya literature, effectively allowing Ahmadiyyas to publish.

As in previous years, the government failed to prepare a list of property that the government expropriated from Hindus following the 1965 India-Pakistan War. The cabinet took steps this year to enact a law to speed up this process.

The law permits citizens to proselytize, and the government respected that right in practice, although local authorities and communities sometimes objected to efforts to convert persons from Islam.

Some missionaries faced problems in obtaining or renewing visas, and some reported that internal security forces closely monitored their activities.

The government allowed various religions to establish places of worship, train clergy, travel for religious purposes, and maintain links with coreligionists abroad.

*Societal Abuses and Discrimination.*—Discrimination against Ahmadiyyas, Hindus, and Christians decreased during the year. There were no demonstrations by anti-Ahmadiyya groups during the year.

There were reports of attacks on members of minority communities, although many of these reports could not be independently verified, and motives for such attacks—criminal, political, or religious—could not be ascertained.

On January 10, according to the Bengali language daily Prothom Alo and the Bangladesh Buddhist Hindu Christian Unity Council, more than 150 armed thugs attacked a mostly Hindu village in Gazipur, outside Dhaka. The mob beat many of the residents, damaged several houses and an image of a goddess, and assaulted several women.

On March 30, according to Shamokal, 50 police officers and 100 citizens evicted approximately 400 predominantly Hindu individuals from their ancestral homes in Sutrapur in old Dhaka. Many of the homes were destroyed. The attackers, allegedly led by the brother of a local AL politician, also destroyed the oldest Shiva temple in Kalirghat.

On August 22, according to media reports, a group of AL activists attacked a Hindu family in old Dhaka and abducted nine members, including children and women, whom it kept in confinement. The police later recovered the victims and arrested four of the alleged abductors. Authorities claimed the abductors may have wanted to take over the house of the Hindu family. A local AL leader admitted the accused belonged to his party but claimed the party itself did not sanction the occupation of the Hindu property. Media reports suggested police had shown undue lenience towards the alleged criminals.

There were no developments in the case of Biman Chandra Bosak, who was allegedly beaten by RAB officers and police in April 2008 after he filed a case against a Muslim neighbor who tried to seize land dedicated to a Hindu deity.

There were also no developments in the April 2008 attack against two Christian men in Rangunia allegedly by members of an Islamist group.

In contrast to previous years, there were no reports of the military attempting to evict Hindu families from land in the Mirpur area of Dhaka abutting the military cantonment.

According to human rights groups, harassment by forestry department officials persisted, although it decreased from previous years.

Religious minorities continued to be disadvantaged in seeking government jobs and political office, although reportedly less so than in the past following the election of a secular government. Selection boards for government services often lacked minority group representation.

There was no Jewish community in the country and there were no reports of anti-Semitic acts against locals, but some newspapers occasionally printed anti-Semitic articles and commentary.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice except in the cases of some opposition political figures. Immigration officials at Zia International Airport in Dhaka prevented numerous politi-

cians belonging to the opposition BNP and Jamaat-e-Islami from leaving the country, citing instructions from undisclosed higher authorities. Some of the politicians successfully challenged the unannounced restrictions on their travel abroad and managed to depart and return to the country. In some instances, the government filed criminal charges against the politicians after they had filed petitions with the High Court challenging the prohibition on their travel. With the lifting of the state of emergency, the government no longer had legal authority to prohibit travel.

The law does not provide for exile, which was not practiced. The country's passports were invalid for travel to Israel.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol. As a result, and in the absence of any national legislation, the law does not provide a legal framework for the granting of asylum or refugee status. The government had no formal system for providing protection to refugees. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedoms would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees.

The government continued to deny asylum to Rohingyas arriving from Burma. The government categorized them as illegal economic migrants and turned back many at the border; however, the border was porous, and attempts to stem the tide of migration proved unsuccessful. According to the UNHCR, some of the individuals who were turned back were likely entitled to refugee status. Some unregistered persons in UNHCR camps returned to the country illegally after their official repatriation to Burma. On a number of occasions, local police picked up unregistered persons outside the camps and imprisoned them under the Foreigners Act.

Working with the UNHCR, the government provided temporary protection to approximately 28,000 registered Rohingya refugees at two official refugee camps and to individual asylum seekers whom the UNHCR interviewed and recognized as refugees on a case-by-case basis. According to international aid organizations active in the area, there were an estimated 200,000 to 500,000 Rohingyas not officially recognized as refugees living among the local population in the surrounding area of Teknaf and Cox's Bazaar, including approximately 12,000 at an unofficial site. There were no repatriations of Rohingyas during the year.

Working with the UNHCR, the government continued to improve conditions in refugee camps following findings in recent years that sanitation, nutrition, and shelter conditions had fallen below minimum international standards. The government permitted the UNHCR to build replacements for shelters and latrines and permitted more NGOs to work in the camps on skills training, education, and health for residents.

According to the UNHCR, there were cases of abuse against refugees, including rape, assault, domestic abuse, deprivation of food, arbitrary detention, and documentation problems. However, there were fewer such incidents reported in previous years.

As in previous years, the government continued to ignore UNHCR requests to allow Rohingya refugees who were unable to return to Burma to work locally, get medical care, or attend school outside the camps. The government began to allow the UN Children's Fund (UNICEF) to operate schools through grade five in the camps. In practice, however, the provision of basic services from the UNHCR and other NGOs meant registered refugees often received better medical care than individuals in surrounding villages. The government insisted all Rohingya refugees remain in camps until their return to Burma. The government claimed Rohingya refugees were not allowed to possess money and that money in their possession could be confiscated. In practice, enforcement of these rules remained sporadic and depended on local authorities. For example, many refugees worked illegally as manual laborers or rickshaw pullers in the unregulated economy, and small numbers of students studied with the assistance of private tutors and participated in countrywide school exams through the high school level.

The government repeatedly rejected a UNHCR proposal to grant refugees rights for temporary stay and freedom of movement under a self-reliance program.

*Stateless Persons.*—In May 2008 the High Court ruled that Biharis living in the country, once considered stateless, were citizens. Approximately 160,000-200,000 non-Bengali Bihari Muslims who immigrated to the former East Pakistan during the 1947 partition, a large number of whom supported Pakistan during the 1971 war, continued to live in camps throughout the country. According to Refugees International, many of these persons lived in unsanitary conditions with little access

to education and medical resources. Some Biharis declined citizenship in 1972, and a minority awaited repatriation to Pakistan, where the government was reluctant to accept them. Many in the Bihari community were born after 1971, and the vast majority of this population has now been assimilated into the mainstream Bengali-speaking environment, although social barriers to upward mobility remained.

Approximately 80 percent of all adult Biharis, or 184,000 persons, were registered as voters following voter registration drives ahead of the December 2008 elections.

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

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

Since assuming power after the caretaker government, the parliament passed 66 bills. Many of those bills either ratified some of the ordinances the caretaker government promulgated or made new laws based on the substance of the ordinances. The Representation of the People's Order (Amendment) Ordinance 2008 significantly changed the electoral law that had been in place since 1972, in an attempt to address corruption in politics. The major political parties considered some of the new provisions in the bill, such as the abolition of students' and women's wings and foreign chapters, to be undemocratic, but they accepted the changes with some of reluctance and revised their party constitutions. Under the amended ordinance, candidates must reveal information about their education, wealth, and criminal records when they file to run for parliament. Political parties must submit statements to the election commission outlining expenditures and sources of funds.

On April 6, the parliament passed the Upazila Parishad (Amendment) Act to reintroduce a tier of the local government abolished in 1991. The act, in contrast with provisions in a lapsed ordinance the caretaker government promulgated, made it mandatory for the upazila parishads, or councils, to accept the advice of the local MP. Under the act, upazila parishads could not communicate directly with the central government without their local MP's advice.

The parliament had 345 members, 300 of whom were directly elected. The remaining 45 seats were reserved for women nominated by the political parties, based on their proportional representation within the 300-member group of directly elected members of parliament. Party leaders appointed candidates for elections, and there were allegations that wealthy candidates could purchase nominations from party leaders with campaign contributions or personal gifts.

*Elections and Political Participation.*—Sheikh Hasina, leader of the AL, became prime minister on January 6, following the parliamentary elections in December 2008. The 14-party AL alliance won 230 of 299 seats in the elections, which international and local observers deemed free and fair. Hasina's cabinet included representatives from the other parties in her coalition. Hasina replaced Fakhruddin Ahmed, chief advisor to the caretaker government, as the head of government. BNP chairperson and former prime minister Khaleda Zia became leader of the opposition.

On January 22, the country held elections to the newly created upazila parishads, or subdistrict councils, throughout the country. There were reports of violence, intimidation, vote rigging, and low voter turnout. The candidates backed by the ruling party won most of the upazila posts, although the election was not officially party based. The election commission organized repolling in a number of upazilas where elections were suspended due to violence.

On January 25, the new parliament convened for its first session. Members of the main opposition party, the BNP, which alleged irregularities in the elections, participated in the first few sessions but subsequently walked out to protest the inadequate allocation of seats in the front row of the opposition bench and did not return to the house at year's end. The parliament formed all 48 standing committees in the first session with participation from opposition parties.

There were 64 women serving in parliament, 19 of them were directly elected. According to the law, women are eligible to contest and win any number of seats among the 345 members of parliament, but 45 seats were reserved for women. Six women, including Prime Minister Hasina, held the status of cabinet minister, including the ministers of home affairs, foreign affairs, and agriculture. Khaleda Zia, as the leader of the opposition, and Sajeda Chowdhury, as the deputy leader of parliament, also had the status of cabinet minister. Two women were appointed as state ministers, and a third was serving as a whip of parliament with the status of a state minister. In the January 22 upazila elections, 481 women vice chairpersons were elected to reserved positions for women. Six of the 89 supreme court judges were women.



There was no provision to provide parliamentary seats for minorities. Members of minority groups constituted approximately 10.3 percent of the population but held only approximately 5 percent of seats in parliament.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, but the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Following the declaration of a state of emergency in 2007, the caretaker government and military took several significant steps to address government corruption. On April 2, however, the ACC chairman resigned following statements by the prime minister suggesting a willingness to reconstitute the ACC. On May 2, the president appointed Gholam Rahman, the former chair of the Bangladesh Energy Regulatory Commission, as the new chairman of the ACC.

During the year the government undertook a substantial review of the actions of the ACC under the caretaker government. An AL-headed parliamentary standing committee summoned the former ACC chairman and two of its current members to appear before the committee to account for some of the ACC's actions against political leaders during the caretaker period. The ACC officials defied the summons and the committee recommended parliamentary action against them. A parliamentary committee also conducted an inquiry into alleged corruption and irregularities by the speaker, the deputy speaker, and the chief whip of parliament and recommended action against them, including stripping former speaker and BNP leader Jamiruddin Sircar of his membership in parliament. Sircar petitioned the High Court to challenge the authority of the committee to take these actions against him. Parliament, however, rejected the committee's recommendation to strip Sircar of his membership.

The government formed a review committee headed by the state minister for law, justice, and parliamentary affairs to recommend withdrawal of politically motivated cases that the government and ACC filed. The committee subsequently recommended the withdrawal of approximately 1,817 cases filed mostly against AL leaders, including all the cases filed against Sheikh Hasina. Other cases recommended for withdrawal included one case against BNP leader Khaleda Zia's son, Tarique Rahman, one against BNP leader and former law minister Moudud Ahmed, and one against Jatiya Party secretary general Ruhul Amin Howlader. Ahmed refused the government's offer to withdraw all cases against him and demanded withdrawal of all politically motivated cases against BNP leaders, including Khaleda Zia and her sons.

During the year authorities had released most of the accused in ACC cases from prison on bail, and the ACC did not file many new cases against politicians or bureaucrats. On March 16, the ACC filed a money laundering case against Arafat "Koko" Rahman, son of BNP leader Khaleda Zia. Separately, the ACC also filed a money laundering case against Tarique Rahman and his associate Giasuddin Al Mamun. On August 5, the ACC filed charges against Khaleda Zia and others for allegedly embezzling funds from the Zia Orphanage Trust.

As in prior years, the ACC focused its efforts on developing cases involving public persons failing to disclose income. The National Board of Revenue filed a tax evasion case against AL advisory council member and immediate past general secretary Abdul Jalil. The arrest came soon after Jalil told a television reporter that his party's victory in the 2008 elections was the result of an understanding with the caretaker government and the military leaders.

In previous years the caretaker government detained prominent business leaders using the Special Powers Act, which permitted preventive detention. Most of those persons were then tried under existing anticorruption legislation. Most high-profile cases were handled under the EPR, which initially denied suspects both the right to bail and the right to appeal their cases during the course of the trial. A supreme court ruling restored some forms of bail and the court exercised its authority to consider bail petitions.

The release of many corruption suspects continued to draw comment from some members of civil society, who stated the government was not serious about fighting corruption. Government leaders argued that the government and the ACC would continue to pursue corruption cases despite release of some suspects on bail. In September the president granted clemency to a fugitive convicted of corruption, Shahadab Akbar, son of deputy leader of parliament Sajeda Chowdhury. The special courts had sentenced Akbar to 18 years' imprisonment for several corruption cases and fined him 15 million taka (\$220,000). Some legal experts questioned the granting of clemency to a fugitive and noted that the constitution authorizes clemency only for those convicts who surrender to a court of law.

On March 29, the parliament passed the Right to Information Act, in line with a lapsed September 2008 ordinance promulgated by the caretaker government. This law effectively annulled the Official Secrets Act, which had denied the public access to government information. The act went into effect on July 1 and required the formation of a three-member information commission. The commission, however, was not functional at year's end.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated independently and without government restriction, investigating and publishing their findings on human rights cases. Although human rights groups often were sharply critical of the government, they also practiced self-censorship.

The government required all NGOs, including religious organizations, to register with the Ministry of Social Welfare. During the state of emergency, NGOs came under heightened scrutiny by the caretaker government and the military, a practice that decreased under the elected civilian government. Nevertheless, local and international NGOs, including Odhikar and the American Center for International Labor Solidarity (ACILS), reported the government sought to impede their work either by canceling projects or subjecting them to restrictive operating requirements.

On August 31, Odhikar received a letter from the NGO Affairs Bureau (NAB), the office within the prime minister's office that approves NGO projects, canceling its approval of an ongoing human rights training and advocacy project. The letter cited objections to the project from the Ministry of Home Affairs but did not provide any details. A newspaper quoted a home ministry official as saying the ministry objected to the project following instructions from unspecified higher authorities. Domestic and international human rights NGOs criticized the government for the arbitrary cancellation of the project and called for a review of the decision. On October 11, a High Court panel stayed the government order canceling its approval of Odhikar's training project and issued a ruling asking the government to explain why its decision to cancel the project should not be declared illegal and void. The case was still pending at year's end.

According to ACILS, in October, the NAB informed the organization it was delaying the release of approximately 34 million taka (\$500,000) in foreign funding for a program to improve labor standards in the shrimp and fish processing sector. The NAB noted that the Home Ministry had required ACILS to secure a clearance from several national security agencies before proceeding with the program. By year's end the government had assured ACILS that the clearances had been completed and that the funds would be released in the near future.

There were no developments in the case of RAB 3 officers allegedly harassing Odhikar in November 2008. According to Odhikar, the RAB continued some harassment of the organization during the year.

Asudullah Al-Galib, leader of Ahle Hadith, a local Islamic group, remained free on bail while awaiting trial on six charges for a 2005 attack on several offices of leading NGOs, including the Grameen Bank and the Rural Advancement Committee. His case was pending at year's end.

In July the parliament passed the National Human Rights Commission Act, successor to the ordinance the caretaker government promulgated. The law changed the formation of the commission and created a new seven-member selection committee, dominated by government officials from the ruling party: the speaker of parliament, the home, law, and justice ministers, and the law commission chairman and cabinet secretary. The other two committee members are an opposition party MP and a ruling party MP, both chosen by the speaker. Human rights activists criticized the new law for granting the commission inadequate powers and politicizing the selection process.

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

The law prohibits discrimination, but the government did not strongly enforce laws aimed at eliminating discrimination. Women, children, minority groups, and persons with disabilities often confronted social and economic disadvantages.

*Women.*—Laws specifically prohibit certain forms of discrimination against women, provide special procedures for persons accused of violence against women and children, call for harsh penalties, provide compensation to victims, and require action against investigating officers for negligence or willful failure of duty. Enforcement of these laws was weak. In 2003 parliament passed an amendment to the current law, weakening provisions for dowry crimes and addressing the issue of suicides of female victims of acts of dishonor.

The law prohibits rape and physical spousal abuse but makes no specific provision for spousal rape. According to Odhikar, there were 454 reported incidents of rape during the year, including 211 against women and 243 against children. According to human rights monitors, the actual number of rape cases was higher because many rape victims did not report the incidents due to social stigma. Prosecution of rapists was not consistent.

For example, on July 9, according to Odhikar and media reports, two men raped a 14-year-old girl in Chorbhodrashon, Faridpur, and recorded the incident on a mobile phone camera. The men then circulated the images among friends, uploaded the images onto a Web site, and copied it onto CDs, which they sold at the local market. The victim's family filed a case with the Women and Children Repression Prevention Court in Faridpur against Kalam Khan, Tushar Khan, and two other unknown men. The court issued arrest warrants for the men and ordered a ban on the sale of the CD. The accused men continued to threaten the victim's family. There were no further developments at year's end.

Domestic violence is not criminalized. According to women's rights groups, it was widespread and increased during the year, although data quantifying it was difficult to obtain. A 2000 study by the UN Population Fund indicated that at least 50 percent of women experienced domestic violence at least once in their lives. The National Women Lawyers' Association (BNWLA) reported 3,502 incidents of domestic violence and received 3,496 complaints related to domestic violence issues. Domestic violence is not criminalized in the country, and most efforts to combat it were funded by NGOs with little assistance from the government. Some of the reported violence against women was related to disputes over dowries. There was an increase in the number of dowry-related killings during the year. Odhikar reported 227 dowry-related killings, an increase from 188 the previous year.

Domestic violence is not criminalized.

On June 3, according to the Daily Star, a man beat his wife to death in Shibrang village, Barobari union in Lalmonirhat Sadar. Police recovered the woman's body the next day and filed a case against the husband. The case was ongoing at year's end.

On July 4, according to media reports, a man beat his wife and allegedly forced her to drink poison in Narsingdi. The woman died on the way to the hospital; her husband claimed she had committed suicide. When the wife's relatives confronted the husband about her death, he allegedly attacked them, seriously injuring six men. According to relatives, the husband regularly beat his wife because he was upset that he had not received a dowry from her parents. A case was filed with the police and was pending at year's end.

On October 19, according to the Daily Star, a man strangled his wife in Kadamtoli, Siddhirganj upazila, because she refused to give him a dowry of 20,000 taka (approximately \$295). The woman was reportedly seven months pregnant when her husband killed her. A case was filed with local police. The husband fled with his young son after the incident and there were no further developments at year's end.

Female prostitution continued to be legal. Male prostitution was illegal, although local NGOs claimed it was common in the major cities. Authorities generally ignored the minimum age of 18, often circumvented by false statements of age, for legal female prostitution. The government rarely prosecuted procurers of minors, and large numbers of underage girls worked in brothels. Estimates for the number of underage girls in commercial sexual exploitation ranged from a 2003 UNICEF estimate of 10,000 underage girls, but other estimates placed the figure as high as 29,000.

NGOs such as the BNWLA operated facilities to provide shelter to destitute persons and distressed women and children. According to the BSEHR, persons in "safe custody" were no longer housed in prisons. Courts sent most of them to shelter homes. In a few cases they were sent to prison as a transit for short periods.

A 2001 high court ruling banned fatwas (religious edicts). Islamic tradition dictated only those muftis (religious scholars) who have expertise in Islamic law are authorized to declare a fatwa. Despite these restrictions, village religious leaders sometimes made such a declaration in an individual case and called the declaration a fatwa. Such declarations could result in extrajudicial punishments, often against women for alleged moral transgressions.

Incidents of vigilantism against women—sometimes led by religious leaders by means of fatwas—occurred. According to Odhikar, 37 incidents of vigilante justice against women occurred during the year. The punishments included whipping, beating, and other forms of physical violence.

For example, on May 22, a fatwa committee in Bitteshwar union ordered a 26-year-old woman whipped 100 times, according to the Daily Star. The woman, an unwed mother, sought to have her son's paternity socially acknowledged, a claim the

alleged father denied. The woman was whipped until she lost consciousness, at which point village leaders asked her father to tie her hands as they continued to whip her. Police filed cases against six men but only three were arrested. The trial was pending at year's end.

On June 10, according to media reports, village leaders in Companiganj whipped a 35-year-old woman and her mother because the daughter allegedly had an affair with a man. Local police arrested five villagers for their involvement in the attack. On June 12, the local AL chapter organized a women's rally to protest the arrest of the perpetrators and warned the police and press against further "excesses" with regard to this incident.

On June 27, according to the Daily Star, village leaders in Khaiyar, Comilla, whipped two women in front of hundreds of persons for their alleged involvement in behavior that was described as "antisocial activity." Local religious leaders issued a fatwa against the women after village arbitration. One of the women was whipped 202 times, and the other received 101 lashes. Each woman was fined 30,000 taka (approximately \$442). Local police arrested six individuals allegedly involved in the incident, who were on trial at year's end.

There were no further developments in the September 2008 case of Mahmuda, a local woman who was shunned by her community after her husband divorced her.

Acid attacks remained a serious problem. Assailants threw acid in the faces of victims—usually women—that left them disfigured and often blind. Acid attacks often related to allegations of spousal infidelity. During the year, according to Odhikar, 101 persons were attacked with acid. Of these, 64 of the victims were women, 20 were men, and 17 were children.

For example, on May 7, according to the AHRC, in Khulna, Ayub Mollah attacked a young woman with acid after she refused his marriage proposal. The woman was admitted to the Khulna Medical College Hospital with burns to her face, ear, and left shoulder. Witnesses reported that the investigating officer accepted refreshments from Mollah before attempting to convince the victim to drop her case. The officer allegedly told the woman she was too poor to win the case, and she should settle for a cash payment and consider marrying Mollah for her own safety. The woman filed a complaint with the Koyna police seeking physical and legal protection, but no action has been taken. The investigating officer's final report of the case cleared Mollah of any wrongdoing.

The law provides for speedier prosecutions of acid-throwing cases in special tribunals and generally does not allow bail. The Women and Child Repression Control Act seeks to control the availability of acid and reduce acid-related violence directed toward women, but lack of awareness of the law and poor enforcement limited the law's effect. According to the Acid Survivors Foundation, the special tribunals were not entirely effective, but that prosecutors were able to obtain an unspecified number of convictions during the year.

Deputy attorney general Rajik Al Jalil stated that the new guidelines covered verbal abuse and physical attacks, including the sending of suggestive text messages. Sexual harassment in schools, workplaces, and in other public spaces remained a problem during the year. A study published on May 19 by the Journal of Interpersonal Violence found that out of 5,106 unmarried adolescent girls in rural areas surveyed in 2004, 35 percent experienced harassment, 34 percent experienced unwanted sexual attention, and 14 percent experienced sexual intimidation.

Reproductive health information was freely available, but income and education often served as barriers to access. According to a 2005 report by the World Health Organization (WHO), "the state of maternal health in Bangladesh is dismal" and the country has a very high maternal mortality rate 300 per 100,000 live births. The WHO also listed some of the major causes of maternal death, including postpartum hemorrhage, obstructed labor, postpartum sepsis, and violence or injuries. According to the government, approximately 85 percent of women give birth at home, and only 18 percent have access to a skilled birth attendant. Fifty percent of women attended one of four recommended prenatal visits; only 21 percent attended all four. Only 21 percent of women attend one or more postnatal visits.

Most of the programs offered by the government and NGOs to prevent and treat HIV/AIDS and other sexually transmitted diseases were focused on women.

Women remained in a subordinate position in society, and the government did not act effectively to protect their basic rights. For example, under traditional Islamic inheritance laws, women inherited only half that of sons, and in the absence of sons, they may inherit only what remains after settling all the debts and other obligations.

Employment opportunities increased at a greater rate for women than for men in the last decade, largely due to the growth of the export garment industry. Women constituted approximately 80 percent of garment factory workers. There were some

disparities in pay in the overall economy between men and women, but in the garments sector they were roughly comparable.

On September 2, the new AL government vowed to reinstate the National Women's Development Policy that the previous AL government established in 1997. The policy's features included reservation of seats for women in parliament, initiatives to appoint women in senior posts in the administration and in all spheres of employment, and greater legal measures to end discrimination against women. There were no further developments at year's end.

*Children.*—The government, with the assistance of local and foreign NGOs, worked to improve children's rights and welfare, enabling the country to make significant progress in improving children's health, nutrition, and education. Despite the progress, according to UNICEF only slightly fewer than half of all children remained chronically malnourished.

The law does not grant citizenship automatically by birth within the country. Individuals become citizens if they, their fathers, or grandfathers were born in the territories that are now part of the country. If a person qualifies through citizenship through ancestry, the father or grandfather must have been a permanent resident of these territories on March 25, 1971. Birth registrations were available only to approximately 10 percent of the population.

Primary education was free and compulsory, but the implementation of compulsory education fell short, in part because parents kept children out of school to work for money or help with household chores. Government incentives to families who sent children to school contributed significantly to the rise in primary school enrollments in recent years. Despite these efforts and contrary to established policies, public schools imposed fees that were burdensome to poor families and created a disincentive to attend school.

Although the legal age of marriage is 18 for women and 21 for men, underage marriage was a widespread problem. Reliable statistics concerning underage marriage were difficult to find because marriage registrations were sporadic and birth registrations rare. A local human rights NGO, Mass Line Media, concluded from a 2004 survey that an estimated 40 percent of all marriages could be considered child marriages. In an effort to reduce child marriages, the government offered stipends for girls' school expenses if parents promised to delay their daughters' marriage until at least age 18.

According to human rights monitors, child abandonment, kidnapping, and trafficking continued to be serious and widespread problems. Despite advances, including a monitoring agency in the Ministry of Home Affairs, trafficking of children continued to be a problem.

Child labor remained a problem in certain industries; it frequently resulted in the abuse of children, mainly through mistreatment by employers during domestic service, and occasionally included servitude and trafficking for commercial sexual exploitation abroad. According to a 2006 study by the Bangladesh Institute of Labor Studies, attacks on children constituted more than 50 percent of the deaths, injuries, and sexual assaults reported among domestic workers during the year.

*Trafficking in Persons.*—The law prohibits trafficking in persons, but trafficking remained a serious problem affecting men, women, and children. Trafficking in children for "immoral or illegal purposes" carries the death penalty or life imprisonment, and the government took measures for the expeditious prosecution of traffickers. During the year special courts dealing with incidents of repression against women and children adjudicated 66 cases. Courts convicted 33 persons and ordered life sentences for 26 convicted traffickers.

Trafficked women and children went to India, Pakistan, Bahrain, the United Arab Emirates (UAE), Kuwait, and destinations within the country. Men seeking work abroad as expatriate labor in destinations such as Malaysia and the Middle East occasionally found themselves in exploitative situations of forced labor, with conditions including restrictions on movement, threats, and physical assault. Some women and children were trafficked internally for commercial sexual exploitation. Some children faced forced labor in the fishing industry, and entire families were subject to bonded labor throughout the country.

According to government sources, law enforcement personnel rescued 73 victims of trafficking during the year. Some of the rescued victims remained in government homes or at NGO-run shelters and received social and vocational skills training while NGOs attempted to locate their families.

During the year the BNWLA rescued 123 domestic trafficking victims and repatriated 42 others. The actual number of persons arrested for trafficking was difficult to assess, as charges against traffickers sometimes cited lesser crimes, such as crossing borders without proper documents. According to the Centre for Women and

Child Services, most trafficked boys were younger than 10, while most trafficked girls were 11 to 16 years of age.

The exact number of women and children trafficked was unknown. Most trafficked persons were lured by promises of jobs or marriage, and some were forced into involuntary servitude outside and within the country. Parents sometimes willingly sent their children away to escape poverty. Unwed mothers, orphans, and others outside the normal family support system were also vulnerable. For example, traffickers living abroad often married women and deserted them upon arrival in the destination country, where they would be sold into bonded labor, menial jobs, or commercial sexual exploitation. International criminal gangs conducted some of the trafficking. The border with India was loosely controlled, especially around Jessore and Benapole.

As many as 10,000 children were used in brothels for commercial sexual exploitation, and procurers of minors were rarely prosecuted.

Government corruption greatly facilitated the process of trafficking. Police and local government officials often ignored trafficking in women and children for commercial sexual exploitation and accepted bribes from brothel owners and pimps.

Because the number of workers traveling to Southeast Asia and the Middle East increased, the expatriate labor market remained lucrative. Labor recruiters sometimes offered nonexistent jobs or conditions that left migrant workers stranded upon arrival in the receiving country. Recruiters also often charged exorbitant fees that made workers extremely vulnerable to forced labor and debt bondage. Some women were subjected to forced prostitution upon arrival in the receiving country.

During the year the Bureau for Manpower, Education and Training (BMET) received 1,025 complaints against recruiting agencies and their agents. By year's end, the BMET had settled a total of 470 complaints and collected 50.6 million taka (approximately \$745,000), more than double the year before. In addition, the government cancelled the licenses of six recruiting agencies and ordered them to forfeit their security deposits due to fraudulent activities and breach of contract. During the year the government also suspended activities of one recruiting agency due to fraudulent activities.

In August the parliamentary standing committee on expatriate welfare and overseas employment ministry issued a two-month deadline to the Bangladesh Association of International Recruiting Agencies (BAIRA) and the BMET to develop and submit a detailed action plan to curb irregularities and mismanagement in the migration sector. The committee also asked the BAIRA to set the migration cost at no more than 95,000 taka (approximately \$1,400) and to standardize a minimum salary for the workers. NGOs alleged that former MPs and other senior political figures were involved with several fraudulent recruiting agencies.

In 2007, as part of negotiations to send workers to South Korea, the government agreed to eliminate the role of recruitment agencies and to have the Ministry of Expatriate Welfare recruit workers directly. In 2007 the government of Malaysia suspended the import of expatriate laborers from the country after persistent problems with recruitment agencies. This issue was later resolved but from time to time Malaysia cancelled visas for the country's workers because of a perceived surplus of labor.

Although a lack of resources hindered investigations, the government maintained antitrafficking police units in all 64 districts to encourage victims to testify against their traffickers and to compile data on trafficking. In response to inadequately trained police and prosecutors, the government worked with legal experts to provide specialized training to prosecutors and with the International Organization on Migration to develop an antitrafficking course for the National Police Academy.

The government continued efforts to combat trafficking in persons through intensive case tracking by the trafficking monitoring cell at police headquarters and holding bimonthly interministerial committee meetings headed by the MOHA. The cell monitored police activities and assisted in prosecuting relevant cases. The government had monitoring committees headed by the deputy commissioners in all 64 districts. These committees transmitted to the national monitoring agency in Dhaka daily progress reports on arrests, convictions, acquittals, and repatriation of trafficked victims.

In 2007 the Foreign Ministry issued new instructions to all consular staff worldwide on how to handle trafficking cases abroad and introduced labor-trafficking training courses for director-level officials. During the year, 17 foreign ministry officials and officials from the Ministry of Expatriates' Welfare and BMET received training to enhance their capacity to protect trafficking-in-persons victims. Thirteen labor attaches received training on ensuring migrant workers' rights and monitoring the compliance of contractual agreements in destination countries.

During the year the MOHA arrested 120 persons on trafficking charges and disposed of 66 trafficking cases. Of those cases, 33 persons were convicted, and 26 of them were sentenced to life imprisonment. Although the law allows capital punishment for convicted human traffickers, no death sentences were handed down during the year. Government antitrafficking projects included conducting awareness campaigns, research, lobbying, and rescue and rehabilitation programs. In February police established a victim support center to provide legal advice and a short-term shelter facility for the victims of trafficking and other forms of violence. The MOHA secretary continued to meet bimonthly with NGOs working on antitrafficking issues to facilitate coordination and cooperation between the government and civil society. The MOHA also formed a committee to adopt a national plan of action to combat human trafficking in the country.

Since 2005 a cooperative effort among NGOs, the government, and the UAE resulted in the repatriation of 199 camel jockeys, all of whom were reunited with their biological parents. Authorities from the government and the NGO community continued to monitor the repatriation, rehabilitation, and social integration of former camel jockeys. All camel jockeys received 104,000 taka (\$1,500) as compensation. The government, with assistance from UNICEF, initiated the second phase of the camel jockey rehabilitation project to focus on ensuring the sustainability of community care groups and livelihood options for victims. During the year, the program to repatriate and compensate former camel jockeys was largely completed. All children were reunited with their families.

Many NGOs, community-based organizations, and local government leaders worked against trafficking through prevention, research, data collection, documentation, advocacy, awareness creation, and networking, cross-border collaboration, legal enforcement, rescue, rehabilitation, and legislative reform. Despite constraints such as lack of birth and marriage records at the village level, authorities prosecuted trafficking cases. There was limited success in increasing shelter capacity and developing rehabilitation programs, including skills and vocational training, to facilitate sustainable social reintegration of the survivors largely due to lack of adequate funding. Despite efforts to address trafficking for sexual exploitation, the government failed to demonstrate significant progress in criminally prosecuting and convicting labor trafficking offenders and recruiters. In December the government formed a committee at the Expatriates' Welfare Ministry to review laws and regulations on labor migration for reformation.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law provides for equal treatment and freedom from discrimination for persons with disabilities; in practice, persons with disabilities faced social and economic discrimination. The law focuses on prevention of disability, treatment, education, rehabilitation and employment, transport accessibility, and advocacy.

The Ministry of Social Welfare, the Department of Social Services, and the National Foundation for the Development of the Disabled were the government agencies responsible for protecting the rights of persons with disabilities. Government facilities for treating persons with mental disabilities were inadequate. Several private initiatives existed for medical and vocational rehabilitation, as well as for employment of persons with disabilities.

*Indigenous People.*—Indigenous populations had marginal ability to influence decisions concerning the use of their lands. There was some progress in the implementation of the 1997 Chittagong Hill Tracts (CHT) Peace Accord. The government reconstituted the CHT Land Commission, which announced its decision to conduct a land survey beginning on October 15. The National Committee for Implementation of the CHT Peace Accord also was reconstituted with Deputy Leader of Parliament Sajeda Chowdhury as chairman. The government did not cede responsibility for key functions such as land use and natural resources to local authorities, as the accord specified. Law and order problems and alleged human rights violations continued, as did dissatisfaction with the implementation of the Peace Accord.

The government allowed some cell phone and Internet coverage to the three Hill Tract districts in 2008. Although the government cited security concerns as the reason for limiting coverage, human rights groups and local officials claimed lack of coverage was also aimed at stunting the development of the region. The Land Commission dealing with land disputes between tribal individuals and Bengali settlers did not function effectively in addressing critical land disputes after the signing of the Peace Accord. Tribal leaders remained disappointed with the lack of assistance to those who left the area during the insurgency. Local human rights organizations alleged that security forces took advantage of the state of emergency to increase

human rights abuses, including arbitrary arrests, against indigenous people in the preceding two years.

In 2007 the government withdrew 16 temporary camps of security forces in the Rangamati area of the Hill Tracts. Since the signing of the 1997 Peace Agreement, the government had withdrawn 212 camps, leaving approximately 270 camps. On July 29, the ISPR office issued a press release announcing plans for a partial removal of troops from the CHT in two months. The main opposition BNP and its allies protested that withdrawal of troops would leave the Bengali settlers insecure and compromise sovereignty. The army withdrew a brigade, including three infantry battalions and 35 security camps, per the announced plans. In August Bengali settlers barricaded roads and enforced “hartals” (strikes) in parts of the CHT to protest the decision. Indigenous leaders welcomed the partial army removal but also insisted on complete withdrawal of camps and faster implementation of other clauses of the peace accord.

The conflict continued between the Parbattya Chattagram Jono Sanghati Samity (PCJSS), which signed the 1997 Peace Agreement with the government, and the United Peoples’ Democratic Front (UPDF), which opposed the peace agreement. There were no further updates regarding the 2007 killing of PCJSS activist Vinku Kumar Chakma.

NGOs continued to allege that security forces abused the indigenous population of the CHT. There were no updates to the 2007 land dispute in Mahalchari in Khagrachari district.

There were no developments in the 2007 arrest of UPDF members Bimol Bikash Chakma and Milon Bihari Chakma.

Indigenous communities in other areas continued to report loss of land to Bengali Muslims. The government neither cancelled work on national park projects on land traditionally owned by indigenous communities in the Moulvibazar and Modhupur forest areas, nor did it undertake any new activities. In addition, indigenous communities, local human rights organizations, and churches in the area continued to claim the government had yet to withdraw thousands of false charges the Forestry Department filed against indigenous residents.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual acts remained illegal but in practice the law was rarely enforced. There were a few informal support networks for gay men, but organizations to assist lesbians were rare.

Attacks on lesbians and gay men occurred on occasion, but those offenses were difficult to track because victims desired confidentiality. Strong social stigma based on sexual orientation was common and repressed open discussion about the subject. Local human rights groups did not monitor the problem, and there were few studies on homosexuality in the country.

Although overt discrimination against lesbians, gays, bisexuals, and transgender individuals was fairly rare—partly because few individuals openly identified their orientation—there was significant societal discrimination. Openly gay individuals, particularly those from less affluent backgrounds, found their families and local communities ostracized them. Some sought refuge in the transgender or “hijra” community.

*Other Societal Discrimination.*—There were no reported cases of violence or discrimination against HIV/AIDS patients. NGOs believed this was partly a function of the refusal of victims to self-identify and an absence of research given the relatively low rate of HIV/AIDS in the country.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right to join unions and, with government approval, the right to form a union, although numerous restrictions on union registration remained. For example, the law requires more than 30 percent of an enterprise’s total workforce to be members before approval and the union can be dissolved if membership falls below 30 percent; no more than three trade unions can be registered in any establishment; and managerial staff and other employees designated by employers as “confidential” may not join unions.

Civil service and security force employees were legally prohibited from forming unions. In 2006 new categories of workers, including teachers and NGO workers, were permitted to form unions; however, due to the broad limitations on union organizing during the state of emergency, these regulations were not formally instituted.

The total labor force was approximately 50 million, of whom approximately 1.9 million belonged to unions, many of which were affiliated with political parties. There were approximately 5,000 garment factories employing 2.5 million workers; more than 80 percent were women. No reliable labor statistics were available for



the large informal sector in which the majority (nearly 80 percent) of citizens worked.

The 2006 Bangladesh Labor Act (BLA) consolidated laws from 25 separate acts into one comprehensive law. The director of labor is responsible for the registration and dissolution of unions. The registrar of trade unions has authority to deregister unions without labor court approval, and during the year some unions were deregistered, primarily for labor law violations. The law afforded unions the right of appeal in the case of dissolution or denial of registration.

The law recognized the right to strike; however, many restrictions on this right remained. For example, 75 percent of union membership must consent to a strike before it can proceed. The government can shut down any strikes lasting more than 30 days and refer the matter to labor courts for adjudication. In addition, strikes are banned for the first three years of commercial production or if the factory was built with foreign investment or owned by a foreign investor. In practice few strikes followed legal requirements, which are cumbersome; strikes or walk-outs often occurred based on the spontaneous decisions of workers.

Throughout the year labor organizers reported acts of intimidation and abuse as well as increased scrutiny by security forces and the National Security Intelligence Agency. Sporadic labor unrest occurred throughout the country, particularly in the ready-made garment sector. Labor organizers reported frequent acts of intimidation and abuse, arbitrarily locking out, and firing employees, and increased scrutiny by security forces. Authorities sometimes arrested labor organizers in what some NGOs considered a crackdown on labor rights activists. In the face of frequent unrest and protests demanding outstanding wages, unpaid overtime, and decent working conditions, in December home minister advocate Sahara Khatun announced the government would create a 1,580-member "industrial police force" to target apparel sector workers and protect investors' assets.

The law established mechanisms for conciliation, arbitration, and labor court dispute resolution. Workers have the right to strike in the event of a failure to reach settlement. The government filed cases against some striking labor leaders and workers for destruction of property, blocking roads, or violation of the EPR provisions. In some cases, the appeals courts subsequently acquitted strikers.

Unions were highly politicized but were independent of the government and were strongest in state-owned enterprises, including jute mills, textile mills, chemical industries, and the government-run Port of Chittagong.

*b. The Right to Organize and Bargain Collectively.*—The law protects the rights of workers to organize and bargain collectively without interference, but this right was not always effectively enforced. The BLA includes provisions protecting unions from employer interference in organizing activities, however, employers often sought to curtail this right, particularly in the ready-made garment industry. Implementation of these provisions was uneven and many private sector employers discouraged union activity. Some employers fired workers suspected of organizing or sympathizing with unions, placed informants in work areas, and intimidated workers with threats of violence.

The Director of Labor ruled on union-organizing discrimination complaints except in Export Processing Zones (EPZs). Throughout the year the Labor Court ordered reinstatement of workers who had been fired for union activities, but a large backlog of unresolved cases remained. The majority of workers in such cases, however, sought financial compensation rather than reinstatement. Increasingly, labor disputes were settled informally prior to scheduled hearing dates in the labor court.

Under the BLA, legally registered unions are entitled to bargain collectively with employers; however, this was rarely implemented in practice. The BLA simplified and clarified the procedure for selecting a collective bargaining agent and specified time limits for steps in the process. Labor organizations reported that in some companies, workers feared reprisals and did not exercise their collective bargaining rights.

Overall implementation of labor regulations in the EPZs was poor. A separate law, the EPZ Workers' Association and Industrial Relations Act (EWAIRA) specified association rights in EPZs. EPZ officials interpreted these regulations and applicable laws narrowly and claimed they were exempt from the broader labor law. Labor groups challenged this claim. EPZ-specific labor laws allowed workers to organize into "workers associations," which had the right to strike and could engage in collective bargaining. Many workers associations were not formally registered because employees attempting to organize associations faced difficulties from some factory owners. Some factory managers strongly discouraged workers from meeting outside labor groups and sometimes terminated workers who did. The challenges to EPZ officials were ongoing at year's end.

Federations of workers associations within the EPZ were permitted, but federations with enterprises in other EPZs or with enterprises outside EPZs were banned. As in previous years, the government did not establish an EPZ labor tribunal or an EPZ labor appellate tribunal as required by the EWAIRA. A 2008 ordinance promulgated by the caretaker government stated that labor courts would serve in place of tribunals for disputes in the EPZ. The new government did not pass this ordinance into law and this provision therefore remained unfulfilled. Workers in EPZs filed complaints in the national labor courts to enforce broader legal rights in the EPZs in addition to provisions of the EWAIRA.

Workers filed legal cases against EPZ factories that did not follow the BLA, and the courts made no decisions on this point. In May 2008, through an amendment of the BLA, the government declared that no trade union office can be established inside or within 200 meters of any industrial institution or group of institutions. Therefore, any trade union offices within these limits had to be moved within three months of the date that the amendment was implemented. In November the BLA was amended to reduce the penalty for persons who violate the provisions of the law. Labor activists protested this amendment alleging this had been made in favor of the employers, although there was no strict enforcement of the law.

*c. Prohibition of Forced or Compulsory Labor.*—The penal code prohibits forced or bonded labor; however, the prescribed penalty of imprisonment for up to one year or a fine was not sufficiently stringent to deter the offense, and the government did not enforce the prohibitions effectively. The BLA created inspection mechanisms to strengthen laws against forced labor, but these laws were not enforced.

Though relatively uncommon in urban areas, bonded labor remained common in rural areas and in domestic service. Faced with extreme poverty and unemployment, rural workers, including entire families, were engaged in bonded labor, often facing physical abuse and sometimes death.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Under the law every child must attend school through grade five or the age of 10 years, but there is no effective legal mechanism to enforce this provision, and child labor is widespread. The BLA regulates child employment depending on the type of work and the child's age. In 2006 the International Labor Organization (ILO) released the 2005 Baseline Survey for Determining Hazardous Child Labor Sectors, which estimated that of the 2.2 million workers in 45 targeted hazardous sectors, 532,000 child workers ages five to 17 performed hazardous labor.

Children were found working in road transport, such as rickshaw pulling, automotive repair, and minibus assistance, in machine shops, salt and match factories, and tanneries, and in the manufacturing of bricks, cigarettes, dried fish, footwear, steel furniture, glass, textiles, garments, and soap. Children were engaged in the following hazardous activities: printing, fabrication, stone breaking, dyeing operations, blacksmith assistance, and construction. Children also worked in the service industry in hotels and restaurants. According to a government survey of urban areas, street children, mostly boys, engaged in various forms of work such as begging, portering, shining shoes, collecting paper, and selling flowers. Boys and girls, often those living on the streets, are exploited in illicit activities, including smuggling and trading arms and drugs.

Children routinely performed domestic work. The government occasionally brought criminal charges against employers who abused domestic servants. During the year, the ILO and the Bangladesh Bureau of Statistics completed a baseline survey on commercial sexual exploitation of children. According to the survey, among 18,902 child victims of sexual exploitation, 83 percent were girls, 9 percent transgender children, and 8 percent boys. Forty percent of the girls and 53 percent of the boys were below the age of 16. Fourteen percent of the girls and 6 percent of the boys were trafficking victims.

There was little enforcement of child labor legislation outside the export garment sector. The BLA specifies penalties for child labor violations, typically nominal fines of less than 5,000 taka (\$80). Agriculture and other informal sectors that had no government oversight employed large numbers of children.

In 2008 the government, with ILO support, established a child labor unit at the Ministry of Labor and Employment to coordinate planning and execution of all child-related labor interventions.

*e. Acceptable Conditions of Work.*—The National Minimum Wage Board (NMWB) announced the most recent national minimum monthly wage in 2007 for all economic sectors not covered by industry-specific wages to be 1,800 taka (\$26.50). The NMWB convenes every five years in a tripartite forum to set wages and benefits industry by industry. In the garment industry, wages were sometimes higher than the minimum wage. Wages in the EPZs were typically higher than general national

wage levels. None of the set minimum wages provided a sufficient standard of living. It was common practice for garment factories to force workers to work overtime, delay their pay for months, and deny full leave benefits. In May the government declared a minimum wage for shrimp sector workers. The minimum monthly wage was 2,510 taka (\$35.85).

The BLA established occupational health and safety standards. Workers groups stated that legally established standards were sufficient, but they were rarely implemented. Workers may resort to legal action for enforcement of the law's provisions, but few cases were pursued legally. Enforcement by the Labor Ministry's industrial inspectors was weak, due to the low number of labor inspectors. Inspections were unannounced, but in many cases, labor groups alleged that factory owners were warned in advance and that the owners colluded with inspectors. There were 95 inspectors serving nationwide and 59 vacant positions. Many workers alleged there was systemic and endemic corruption and inefficiency among inspectors.

Because of high unemployment rates and inadequate enforcement of laws, workers demanding redress of dangerous working conditions or who refused to work under hazardous conditions risked losing their jobs. A standard workday is eight hours, but workers may work 10 hours a day in certain instances. Overtime is permitted, but the employer must pay double the basic wage and other allowances and ad hoc or interim wage for the overtime work. A standard workweek is 48 hours but can be extended up to 60 hours, subject to the payment of overtime allowances. By law, the average workweek should not exceed 56 hours. Workers must get one hour of rest if they work for more than six hours a day, a half-hour of rest for more than five hours a day, and one hour's rest at intervals for more than eight hours' work in a day. Factory workers receive one day off every week. Shop workers receive one and a half days off per week.

In practice, however, these legal limits were routinely violated and enforcement of these provisions was weak. On May 10, the National Labor Committee (NLC) released a report detailing its investigations in 2008, which uncovered abuses of workers in a Chittagong factory that produces jeans for leading international retailers. For example, the report notes that Bibi Kulsum Fatema, an 18-year-old worker, fainted due to overwork at her workplace and died after she was taken to a nearby hospital. According to the report her mother stated that she worked 13-15 hours at a stretch every day. The report also stated that many workers informed NLC investigators that the factory manager kicked a 17-year-old worker who had collapsed on the factory floor and that many workers are often beaten and forced to 20-hour shifts. The report noted that workers often have limited access to bathrooms and that factory fans were often kept switched off to save energy. The NLC report indicated that speaking in many factories was strictly prohibited.

The Bangladesh Garments Manufacturer and Exporters Association president stated that his organization sought to promote full compliance with of labor regulations and that the organization would reinvestigate all allegations of abuse.

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## BHUTAN

Bhutan is a democratic, constitutional monarchy with a population of approximately 700,000. The current king, Jigme Khesar Namgyel Wangchuck, is the head of state, and executive power is vested in the cabinet, headed by the prime minister, Jigme Thinley. The civilian authorities generally maintained effective control of the security forces.

Although constitutional democracy has helped to improve the human rights situation in the country, difficulties with the regulation of religion and some discrimination against the ethnic Nepalese minority remained.

### RESPECT FOR HUMAN RIGHTS

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

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

*b. Disappearance.*—The Human Rights Organization of Bhutan (HUROB) claimed the government was responsible for disappearances of alleged supporters of the Communist Party of Bhutan-Marxist, Leninist and Maoist (BCP-MLM), in Samchi in 2008. On February 25, HUROB reported that five cases submitted to the UN Working Group on Enforced and Involuntary Disappearances remained outstanding without a government response.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, but some human rights groups alleged the army mistreated cadres of the BCP-MLM who were arrested after a series of bomb blasts prior to the March 2008 elections. HUROB also claimed police tortured persons arrested in connection with violence in refugee camps. The South Asia Human Rights Documentation Center (SAHRDC) received anecdotal information from Indian border towns that the government detained Maoist leaders and denied them food and medical treatment. There was no confirmation of these allegations by year's end.

*Prison and Detention Center Conditions.*—Inmates and members of civil society reported that prison conditions generally were satisfactory, and buildings and installations were in fairly good condition. According to the 1982 Prison Act, men and women should be detained separately, and juveniles (younger than 18) should be kept separate from adults. NGOs were unable to determine if these laws were followed during the year. Authorities kept prisoners incarcerated for politically motivated crimes in areas separate from criminals.

The government extended the International Committee of the Red Cross (ICRC) prison visits program. During the year the ICRC visited 86 persons held at the Chamgang Prison near Thimphu. None of the 86 persons was a woman or juvenile. At the time of the visit in January, Chamgan Prison authorities told the ICRC the prison held a total of 405 prisoners, including the 86 the ICRC visited.

During its July session, parliament passed the 2009 Prison Act to improve prison management.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The SAHRDC stated that its contacts in the country reported officials continued to detain 50 BCP-MLM cadres arrested in connection with bomb blasts in January and February 2008. No information was available regarding their whereabouts or whether the government brought official charges against them.

*Role of the Police and Security Apparatus.*—The Royal Bhutan Police (RBP) agency, which reports to the Ministry of Home and Cultural Affairs, was responsible for internal security. The Royal Bhutan Army (RBA) was responsible for external threats but also had responsibility for some internal security functions including conducting counterinsurgency operations, guarding forests, and providing security for important persons. The army and police both have procedures in place for conducting internal investigations of alleged officer misconduct; official courts of inquiry adjudicate the allegations. The king or other senior official makes the final determination of the outcome of a case.

The government adopted the Royal Bhutan Police Act of 2009 to help address police human rights abuses. Under the Act, a Police Service Board consisting of senior police personnel and a Ministry of Home and Cultural Affairs representative investigates cases of abuse; police officers can face criminal prosecution for human rights violations. The RBP has in place institutional reviews, human rights training for its personnel, and accountability procedures.

The Anti-Corruption Commission (ACC) is authorized to investigate cases of official corruption.

*Arrest Procedures and Treatment While in Detention.*—Under the law police may not arrest a person without a warrant, and in practice the police generally respected the law. According to the law, authorities must issue an immediate statement of charges and engage in reasonable efforts to inform the family of the accused. Authorities are required to bring an arrested person before a court within 24 hours, exclusive of travel time from the place of arrest. Bail is available depending on the severity of charges, the suspect's criminal record, likelihood of flight, and potential threat to the public.

*e. Denial of Fair Public Trial.*—In 2007 the government passed the Judiciary Services Act (JSA), establishing the formal separation of the judiciary from the executive. The JSA set professional standards for judges and other judicial service personnel. In practice the judiciary generally enforced the right to a fair trial. The National Judicial Commission (NJC) oversees the judiciary.

The JSA created a supreme court that has the responsibility to oversee the interpretation and application of the constitution. The judicial system consists of subdivisional courts, district courts, and a high court. The NJC nominates and the king confirms judges to the high court and 20 district court justices. The king may remove, suspend, or censure judges only at the request of the NJC. The chief justice of the high court, following recommendations of the Judicial Service Council, makes judicial appointments to the subdivisional courts.

The Office of Legal Affairs (OLA) is the judicial support department and it conducts state prosecutions, drafts and reviews legislation, and renders legal counsel.

The OLA consists of a legal services division with domestic, international, and human rights sections, and a prosecution division with criminal and civil sections.

As the lowest level of the judicial system, village headmen arbitrate disputes. Magistrates with responsibility for a block of villages review the decisions of village headmen. Defendants may appeal decisions rendered by magistrates to a district judge.

*Trial Procedures.*—The law stipulates that defendants must receive fair and speedy trials, and the government generally respected this right in practice. A preliminary hearing must be convened within 10 days of registration of a criminal matter with the appropriate court. Before registering any plea, courts must determine whether an accused is mentally sound and understands the consequences of entering a plea. Defendants enjoy a presumption of innocence, and cases must be proved beyond a reasonable doubt to obtain convictions. There is no trial by jury. Punishments include imprisonment, probation, fines, or a requirement for restitution of losses. Defendants have the right to appeal to the high court and may make a final appeal to the king, who traditionally delegates the decision to the Royal Advisory Council. Trials are conducted publicly, except for cases involving family law and juveniles. The Civil and Criminal Procedure Code of Bhutan 2001 does not give defendants the right to question witnesses. Only the court can determine if there is a need to question witnesses, after which the prosecutor and defendants are allowed to conduct cross-examinations.

Courts tried criminal and civil cases under both customary law and the legal code. State-appointed OLA prosecutors are responsible for filing charges and prosecuting cases for offenses against the state. In other cases relevant organizations and departments of government file charges and conduct prosecutions. The law grants defendants and their attorneys access to state evidence.

Although most litigants represented themselves before the court, the law provides for the right to representation in criminal cases, including provision of counsel for defendants who cannot afford representation. In practice there were no known instances of the government providing free legal counsel to political opponents, and many citizens who were unable to afford representation did not receive professional legal assistance. The law states that defendants may choose legal representation from a list of government licensed advocates, and the government promoted the use of judiciary Web sites for legal information as a means of offering self-help to defendants. The OLA stated that most defendants sought professional legal assistance only in serious criminal cases.

*Political Prisoners and Detainees.*—The Society for Threatened Peoples reported to the Universal Periodic Review process of the UN Human Rights Council that at least 200 political prisoners remained imprisoned in the country. During the year, HUROB estimated the government released four or five individuals who had been imprisoned from 1991 to 1992 for violence associated with political dissent.

Several nongovernmental organizations (NGOs) asserted that, although some political prisoners were sentenced to life in prison, other sentences varied, and most ranged from three months to three years.

In March, 10 inmates engaged in a hunger strike to demand the release of all political prisoners, but in April authorities informed the ICRC that the prisoners had stopped the strike. Participants included Shantiram Acharya, who reportedly was arrested for taking photographs of an army outpost and charged for participating in “subversive activities,” and N.L. Katwal, a political activist arrested for participation in a demonstration. The Association of Press Freedom Activists (APFA) alleged Acharya was kept in secret detention for two months and subsequently tortured by police. APFA also stated Acharya was convicted only because he could not afford a lawyer.

*Civil Judicial Procedures and Remedies.*—Criminal matters and most civil matters are resolved under the Civil and Criminal Procedure Code (CCPC). The CCPC states that a suit may be initiated by a litigant or a member of the litigant’s family. Questions of family law are governed by traditional Buddhist or Hindu law. Village leaders adjudicate minor offenses.

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

Human rights groups claimed the government interfered with individual rights by requiring all citizens, including ethnic minority members, to wear the traditional dress of the ethnic majority in public places. The government strictly enforced the law, however, only in Buddhist religious buildings, government offices, schools, official functions, and public ceremonies. Younger citizens increasingly refused to comply with this regulation.

The country implements criminal sanctions against sexual activity between consenting adults. For example, a person may be imprisoned for as long as one year for engaging in sodomy or “any other sexual conduct that is against the order of nature,” but there were no reported prosecutions based on these charges. The Marriage Act bars non-Bhutanese individuals who are married to citizens from promoting a religion other than Buddhism.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Some bombings and sporadic killings occurred in parts of the country as a result of internal conflicts in 2008. There was no further information from investigations into these incidents.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press. The government attempted occasionally to impede criticism of it and to monitor political meetings.

In practice, individuals are permitted to criticize the government publicly, but the law prohibits criticism of the king and the political system.

Independent newspapers operated and published stories critical of the government, although some NGOs expressed concern about increasing government interference with independent media sources. NGOS reported that the government fined a media outlet for airing a discussion of taxi fares. The reports stated that the InfoCom and Media Authority (BICMA) interrogated editors of a newspaper following their publication of an article about government interference in the media.

In May a reporter from the country stated in his presentation at a regional conference in Nepal that it “was too early to say that Bhutan had freedom of press.” The government allowed foreign broadcasts, and foreign newspapers and magazines were available. Private radio and television stations were active and expressed a variety of views, but media observers reported that the government may have limited the number of television stations as a result of high sales taxes and regulatory obstacles.

*Internet Freedom.*—Individuals and groups generally were permitted to engage in peaceful expression of views via the Internet, although there were some reports of government restrictions. The government continued to monitor material on the Internet and blocked what it deemed pornographic. According to the SAHRDC’s most recent figures, approximately 0.4 percent of the country’s inhabitants used the Internet in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provided for the right to peacefully assemble and for freedom of association, with the exclusion of membership in associations that are “harmful to the peace and unity of the country.” All protesters must first obtain government approval before staging public demonstrations. It is not known whether the government denied any permits during the year.

*Freedom of Assembly.*—The government did not allow NGOs that work on overtly political issues to operate inside the country. Security forces arrested citizens for taking part in peaceful prodemocracy demonstrations, and the government deported southern Bhutanese refugees who had been living in Nepal but who entered the country to demonstrate for the right to return.

*Freedom of Association.*—The law provided for freedom of association, and the government permitted the registration of some political parties and organizations. The government did not permit political parties organized by ethnic Nepalese citizens. According to international NGOs, local civil society organizations censored themselves to avoid conflict with the government.

*c. Freedom of Religion.*—Mahayana Buddhism is the basis of the state’s spiritual heritage, but the law provides for freedom of religion. There were allegations that the government restricted this right in practice.

The government favored the Drukpa Kagyupa and Ningmapa Buddhist groups, subsidizing their monasteries and shrines, as well as providing financial aid for their monks. The government stated its actions were in accordance with a 1956 agreement following its seizure of Buddhist land for redistribution to landless citizens. Societal pressure to practice Buddhism was not apparent, but the government declares most major Buddhist holy days to be state holidays. The king declared one major Hindu festival to be a national holiday.

NGOs reported that the government required permission to build religious temples but rarely granted it for non-Buddhist buildings. Followers of religions other than Buddhism and Hinduism were free to worship in private but were not per-

mitted to erect religious buildings or congregate in public. International Christian relief organizations and Jesuit priests were active in education and humanitarian activities, but several organizations reported that Christian religious services often had to be held in private in order to avoid harassment by authorities. Proselytism and forced conversion are barred under the National Security Act, which prohibits speech promoting “enmity or hatred” between religious groups. Violation of the law is punishable with a maximum of three years’ imprisonment, although the extent of government enforcement of this provision is unknown.

According to dissidents living outside the country, the government permitted only Drukpa Kagyupa and Nyingmapa Buddhist religious teachings in schools. Some dissidents stated that Buddhist prayer was compulsory in all government-run schools; the government contended Buddhist teaching was permitted only in monastic schools and religious teaching was forbidden in other schools. Local NGOs confirmed that students did take part in a prayer session each morning, but the prayers were nondenominational and noncompulsory. Government authorities occasionally asked job applicants to state their religion before entering them into public service. The government required all civil servants to take an oath of allegiance that did not have religious content but was administered by a Buddhist Lama. There were no reports of denial of promotion for Hindus and Christians. The formal practice of Hinduism was permitted.

in government.

*Societal Abuses and Discrimination.*—The country does not have a Jewish population, and there was no report of any anti-Semitic acts. For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but the government limited them in practice. The law does not address forced exile, but the government forced the majority of its Nepali-speaking population to leave the country in the early 1990s, following a series of steps taken during the 1970s and 1980s to deprive the Nepali-speaking population of their citizenship. The 2007 census indicated there were 108,000 persons living in refugee camps in Nepal administered by the Office of the UN High Commissioner for Refugees (UNHCR). In 2007 the government of Nepal announced it would allow resettlement of the refugees in foreign countries. As a result, resettlement began in 2007, and as of November more than 24,000 Bhutanese refugees had been resettled in foreign countries, with the majority (more than 21,000) in the United States. As of October, according to the UNHCR, almost 80,000 of the refugees had formally expressed interest in resettlement in other countries.

Despite the opportunity for large numbers of refugees to resettle to third countries, some residents in the camps in Nepal continued to demand, occasionally through hunger strikes, repatriation to the country. A human rights group active in the refugee camps registered several thousand refugees, many of them elderly, who had expressed their continued strong desire to repatriate.

The government continued to condemn the UNHCR for its failure to screen individuals who entered camps in Nepal in the early 1990s to determine whether they were genuine citizens of the country. The government maintained that individuals who entered the camps before the establishment of screening and registration mechanisms were not citizens and were using the camps as a base for terrorist activities against the country.

The government restricted emigration and prohibited the return of citizens who left the country. The country’s revised citizenship laws state that persons who have left the country of their own accord, without the knowledge or permission of the government, or whose names are not recorded in the citizenship register maintained in the Ministry of Home Affairs (MHA), would not be considered citizens of the country. Some dissidents and human rights groups claimed the government wrote the law specifically to deny citizenship to ethnic Nepalese Bhutanese. Human rights groups also alleged that some ethnic Nepalese who had relatives in the camps faced insurmountable bureaucratic challenges and were denied identification cards, compromising their citizenship status and preventing them from participating in the 2008 election process.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. Its laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. In practice, the government provided some protection against the expulsion or return of refugees

to countries where their lives or freedoms would be threatened because of their race, religion, nationality, membership in a particular social group, or political opinion.

From 1990 to 1993, more than 80,000 ethnic Nepalese Bhutanese left the country and entered Nepal via India. Approximately 15,000 additional refugees fled Nepal to India, but the UNHCR did not accord them refugee status. According to Human Rights Watch (HRW), there were 25,000 to 45,000 unregistered ethnic Nepalese Bhutanese refugees living outside refugee camps in India and Nepal who did not have citizenship in the country, rendering these persons stateless. The government stated it is committed to receiving “genuine” refugees wishing to return voluntarily from the camps but also maintained that only a small number of persons in the Nepali camps are genuinely citizens.

*Stateless Persons.*—Implementation of a nationwide government-conducted census in 1985 resulted in the denationalization of many ethnic Nepalese in the country because land ownership documents from 1958 were required to receive citizenship. The census was repeated in 1988-1989 in the southern districts, and those who lost citizenship in 1985 were at that time permitted to reapply for citizenship provided they met certain conditions. The government then labeled as illegal immigrants those who could not meet the new, more stringent citizenship requirements. Beginning in 1990 the government expelled large numbers of ethnic Nepalese individuals under the 1985 citizenship law.

The law provides for revocation of the citizenship of any naturalized citizen who “has shown by act or speech to be disloyal in any manner whatsoever to the King, country, and people.” The MHA later declared that any nationals leaving the country to assist “antinationals,” and the families of such persons, would forfeit their citizenship. The law permits reapplication for citizenship after a two-year probationary period. The government reissues citizenship upon successful completion of the probation period and a finding that the person in question is not responsible for any act against the government. There were no reports of successful application of this provision.

Some citizens alleged the government discriminated against ethnic Nepalese persons still living in the country by enacting and enforcing restrictive citizenship laws. These laws regulated the movement of ethnic Nepalese to different towns, monitored school attendance, regulated the buying and selling of property, and regulated engagement in business activities. The government also required ethnic Nepalese individuals to meet strict criteria to obtain citizenship, including security clearances to obtain No Objection Certificates (NOCs). Without citizenship, they were stateless and faced discrimination with regard to education, employment, and land ownership.

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

The country completed a successful transition from an absolute hereditary monarchy to a constitutional monarchy with a bicameral elected parliament in 2008, marking the final step in the transition to a parliamentary democracy. The law provides limited rights for changing the government, and it provides for a separation of powers.

*Elections and Political Participation.*—In 2007 the government began allowing political parties to register under the terms of a draft constitution. Three parties registered with the Election Commission, which disqualified the Bhutan People’s United Party (BPUP) for “failing to prove its credibility” as a national political party. The Election Commission indicated that BPUP candidates did not meet the commission’s education requirements. The Election Act specifies that candidates for parliament must have earned at least a bachelor’s degree to run for office. The government took no action in response to the party’s appeal of the decision.

Other parties, such as the Druk National Congress, established in 1994, continued to claim that the government denied independent parties the ability to operate effectively. Both parties that participated in the 2008 National Assembly elections, the ruling Druk Phensum Tshogpa (DPT) party and opposing People’s Democratic Party (PDP), had ties to the royal family. The government regarded political parties organized by ethnic Nepalese living in refugee camps as illegal, terrorist, and antinational in nature. These parties, which sought repatriation of refugees and democratic reforms, were unable to conduct activities inside the country.

In 2008 voters elected the first National Assembly which is the lower house of the parliament. The DPT won 44 out of 47 seats. Eighty percent of the 320,000 eligible voters cast ballots. HRW reported that the government excluded 13 percent of the population from voting because, as ethnic Nepalese, they were considered “non-nationals” in the 2005 census. Nonetheless, nine Nepali-speaking candidates were elected.



There are 25 members of the National Council, or upper house of parliament; the king appoints five members and the remaining members are elected. In 2007 elections for the National Council, voters elected three women, two Nepali speakers, one Hindu, and one Christian. International monitors judged the elections free and fair. Women constituted 26 percent of civil service employees and held more than 30 percent of positions at the Ministry of Foreign Affairs. There were no women on the high court, although there was one female judge in a district court. Women in parliament decreased from 9.3 percent in 2005 to 2.7 percent in 2008. There was no provision for allocating a set number or percentage of parliamentary seats for women or members of minority groups.

In September the government passed the Local Governments Act, which stipulates 20 local governments, one for each Dzongkhags (province). The act calls upon the local governments to provide social and economic services and to promote the development and well-being of constituents. The act does not provide these governments with legislative powers but grants them the authority to collect taxes, to make rules and regulations consistent with national legislation, and to receive funds from the national government to fulfill their duties. According to an NGO, elections for such local governments were to take place in October 2008, but political wrangling within the two houses of parliament delayed the passage of the act and in turn the elections. After the government failed to pass an elections act in July, the king requested an extraordinary sitting of both houses of parliament in September, at which time the act was passed. The date for local elections had not been scheduled by year's end.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. The government took an active role in addressing the issue through the public accounts committee in the National Assembly and the Royal Audit Authority, which monitored the use of government funds. The Anti-Corruption Commission (ACC), established in 2006, allowed citizens to post information on its Web site regarding corrupt practices. According to the ACC's most recent report presented to parliament in 2008, it received 498 complaints in 2006, 791 complaints in 2007, and 287 complaints as of September 2008. It had investigated a total of 34 cases, forwarded a total of 37 cases to the Office of the Attorney General or other agencies, and passed judgment in 15 cases. The same report indicated that it took an average of 72 working days to begin an investigation following the submission of a complaint and an average of 37 working days to complete an investigation. According to a Bhutan Observer article published in November, 428 complaints were made during the year to the ACC. Although the number of complaints investigated was not mentioned, the ACC stated that it investigated 12 percent of complaints made between 2006 and 2009. Freedom House indicated during the year that local police and local officials engaged in significant acts of corruption.

There is no law providing public access to government information, but NGOs reported that the government regularly provided unclassified information upon request.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no independent human rights organizations operating in the country. The government regarded human rights groups established by ethnic Nepalese as political organizations and did not permit them to operate. The ICRC was the only human rights monitoring group officially operating in the country.

Various civil society organizations functioned locally and informally. The Civil Society Organization (CSO) Authority, established by the Civil Society Act of Bhutan 2007, became operational during the year. The government established the CSO Authority to oversee the accountability and transparency of CSO operations, and by year's end 33 organizations had applied for CSO status with the Authority. Critics, including the Committee on the Rights of the Child, stated that they feared the CSO Act could result in restrictions on, rather than promotion of, independent civil society organizations. In 2008 the government created the Committee on Human Rights within the National Assembly to help promote human rights within the legislative processes, visit prison and detention centers, and submit findings and recommendations regarding human rights.

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

The constitution prohibits discrimination on the basis of race, sex, disability, language, or social status.

*Women.*—The law mandates that the government take appropriate measures to eliminate all forms of discrimination and exploitation of women, including trafficking, prostitution, abuse, violence, harassment, and intimidation, at work and at home, and generally the law was enforced. The Committee on the Elimination of Discrimination against Women (CEDAW) reviewed the country during the year. CEDAW commended the government for establishing the National Commission on Women and Children (NCWC) Plan of Action for Gender and recognizing gender in the five-year plan of the Gross National Happiness Commission. CEDAW expressed concerns, however, that the constitution does not adequately define discrimination to include both direct and indirect forms. They also noted the government failed to adopt implementation legislation for its international treaty obligations related to women's rights or to provide adequate resources to the NCWC to allow it to operate effectively.

NGOs reported that women faced little overt discrimination and had equal access to health care, education, and public services. There was no evidence that rape or spousal abuse were extensive problems, but NGOs reported that many women did not report rape because of cultural taboos or because they were unaware of their rights. CEDAW expressed concern over reports of violence against women by their spouses or other family members and at work.

The law contains a clear definition of criminal sexual assault and specifies penalties. In cases of rape involving minors, sentences range from five to 17 years in prison. In extreme cases a rapist may be imprisoned for life. Spousal rape is illegal. According to CEDAW, the government commissioned a report on violence against women, set up mobile police stations, trained police on gender issues, and allowed civil society groups to undertake further efforts including the opening of a crisis and rehabilitation center. CEDAW expressed concern about the large number of reported sexual harassment cases in the workplace.

Women were accorded respect in the traditions of most ethnic groups and participated relatively freely in the social and economic life of the country. Inheritance law provides for equal inheritance for sons and daughters, but traditional inheritance practices, which varied among ethnic groups, may be observed if the heirs choose to forgo legal challenges. Traditional inheritance laws for the majority of Buddhists stipulate that daughters inherit family land. As a result, 60 percent of rural women held land registration titles, accounting for the large number of women who owned shops and businesses. Tradition dictates that the most capable member of the family runs the household, which often resulted in the mother or eldest daughter holding this position. Within the household men and women were relatively equal. Employers generally paid women in unskilled jobs slightly less than men in the same positions. In 2007 women constituted approximately 43.6 percent of the work force. Dowries were not customary in the country.

CEDAW expressed concern over the continued gender gap in secondary and higher education as well as in participation and representation in public and political affairs.

Prostitution took place on a limited scale and mostly in border regions.

The country has no legal restrictions regarding the number, spacing, or timing of children, and there were no reports of coercion regarding reproduction. According to the World Health Organization's (WHO) 2005 report, the maternal mortality ratio was 450 per 100,000 live births, and 56 percent of births in 2006 were attended by skilled personnel. WHO also noted, "Death during pregnancy and within six weeks following delivery is very common among women of reproductive age." In 2000 WHO stated that contraceptive prevalence was at 31 percent and information about, and access to, contraception was readily available.

The law covered questions related to family issues, including divorce, child custody, and inheritance. The minimum age of marriage for women was 18. The law provided for equal treatment for men and women. Polygyny is allowed provided the first wife gives her permission. Polyandry was permitted but was rare. Marriages were arranged by the marriage partners themselves or by their parents. The law required registration of all marriages with the government.

The National Women's Association, one of the few registered NGOs, tried to encourage women to improve their living standards and socioeconomic status. The NCWC actively defended the rights of women and children during the year, although CEDAW questioned the limited resources of the NCWC and its potential lack of independence from government influence.

CEDAW expressed concern about the high numbers of women younger than 25 who have contracted HIV/AIDS. Respect, Educate, Nurture and Empower Women, an organization operating with funding and direction from the queen, focused on HIV/AIDS and other health issues to improve the lives of underprivileged and marginalized women. In 2007 the government established the Women and Child

Protection Unit, run by female police officers in collaboration with the NCWC. The unit provides a setting for women to voice problems freely and works to provide appropriate care for victims of societal violence or discrimination.

*Children.*—Under the constitution only children whose parents are both citizens become citizens at birth. According to the Bhutanese Refugee Support Group, existing citizenship laws contained inadequate provisions for a child to acquire nationality at birth, and persons who are designated as “non-nationals” (for example, ethnic Nepalese Bhutanese) are rendered essentially stateless. Births in remote areas are less likely to be registered. NGOs asserted births of children to nonregistered ethnic Nepalese Bhutanese may not be registered. The failure of timely birth registration had negative consequences and made it difficult for some children to access educational and other services.

The government provides 11 years of universal, free education to children who are recognized as citizens. Education is not compulsory, and some schools charged fees. According to the UN Development Program, the primary school net enrollment rate was 83.7 percent in 2007. The Ministry of Education reported that enrollment of girls at every level of general education has slowly but steadily increased since 2002. Girls comprised 49 percent of the enrollment in schools and, in several districts, the average surpassed 50 percent. Approximately 33 percent of university students were female and 18 percent of the students receiving scholarships to study abroad were female.

There is no law barring ethnic Nepalese children from attending school, but the government denied NOCs to children of ethnic Nepalese the government claimed were antinationals, preventing them from accessing higher education. Minority children often were denied access to primary, secondary, and higher-level education when the government withheld a required “security clearance certificate.” Members of exiled groups claimed the government discriminated against ethnic Nepalese Bhutanese secondary level students in distribution of educational advantages and benefits, particularly if the students were related to prominent dissidents or refugees. The government refuted this claim, stating that all scholarships were merit based.

Child abuse was rare. Although corporal punishment was banned in schools, there were some incidents in schools and monasteries.

*Trafficking in Persons.*—The law prohibits trafficking in persons, and it appeared that few individuals were trafficked to or from the country, although exact numbers were difficult to ascertain because few NGOs and government officials worked on the issue. There were no reported cases of trafficking within the country, but CEDAW expressed concern that there was an increase in trafficking in persons in the country and that women had few protections to prevent them from being trafficked.

The Department of State’s annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law does not specifically protect the rights of citizens with disabilities, but it does direct the government to try to provide security in the “event of sickness and disability.” There was no evidence of official discrimination against persons with disabilities in matters of employment, education, access to health care, or the provision of other state services. The law stipulated that new buildings must be constructed to allow access for persons with disabilities, but the government did not enforce the law consistently. Under the Disability Prevention and Rehabilitation Program, the government seeks to provide medical and vocational rehabilitation for persons with all types of disabilities, promote integration of children with disabilities into schools, and foster community awareness and social integration. The approximately 21,894 (3.4 percent of the population according to the most recent estimates released in 2005) persons with physical disabilities living in the country lacked necessary infrastructure.

There are three special education institutes for students with disabilities including the National Institute for the Disabled in Khaling, which educates visually impaired children, and an education resource unit for the hearing impaired in Paro. There also were special education facilities in Thimphu designed to meet the needs of children who have physical and mental disabilities. Although there were no government-sponsored social welfare services available for persons with disabilities, the National Pension and Provident Fund granted benefits to persons with disabilities.

*National/Racial/Ethnic Minorities.*—An estimated 100,000 ethnic Nepalese Bhutanese left the country in the early 1990s, although the government asserted that a substantially smaller number departed. Ethnic Nepalese Bhutanese claimed they were subjected to discrimination and prejudice in employment, but the government stated they were proportionally represented in civil service and government jobs.

Human rights groups outside the country contended that the government's employment claims are based on intentionally inaccurate numbers.

During the 1990s, the government resettled Bhotes (members of the dominant ethnic group of the country who speak Dzongkha and practice the Drukpa Kagyupa sect of Mahayana Buddhism) in the southern part of the country on land that ethnic Nepalese Bhutanese had vacated. Human rights groups maintained that this action prejudiced any eventual outcome of negotiations over the return of the ethnic Nepalese Bhutanese refugees to the country. The government indicated it occasionally resettled ethnic Nepalese from the south on more fertile land in other parts of the country.

The 1998 government dismissal of 219 employees who were relatives of "antinationalists" (refugee activists) continued to adversely affect the ethnic Nepalese Bhutanese resettlement. The forced retirement of refugee family members from government service and the resettlement of Bhotes on land that expelled ethnic Nepalese Bhutanese vacated in the south reinforced prejudice against the ethnic Nepalese Bhutanese. The government stated that these resettlement plans were part of a nationwide program to discourage migration to urban centers and to reduce the dependence of landless persons on migrant farming.

The law requires that the Dzongkha language be taught as a second language in all schools. No instruction in Nepali as a second language was required or offered. The Committee on the Rights of the Child expressed concern about the rights of minority children, specifically those of Nepalese ethnic origin, to take part in their culture, practice their religion, or use their language.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Same-sex relationships are illegal in the country and punishable as a petty misdemeanor with a prison sentence ranging from one month to one year. Under Article 213 in Chapter 14 of the Penal Code, a person can be imprisoned for as long as one year for engaging in "sodomy or any other sexual conduct that is against the order of nature." There were, however, no reported cases of such charges.

*Other Societal Violence or Discrimination.*—Different observers assessed varying levels of stigma associated with HIV/AIDS. Persons with HIV/AIDS received free medical and counseling services, and the government maintained programs meant to prevent discrimination.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form workers' associations; there were no new associations formed in the country during the year. The law does not allow for the formation of unions or for strikes.

In 2007 parliament passed the Labor and Employment Act of 2007, which allows employees to form an association in one workplace if at least 12 employees join the association. The law was first tested in September 2008 when national telecommunications employees decided to form an association after they accused management and the government of discriminatory behavior in promotions. There have been no subsequent updates on the formation of the association.

*b. The Right to Organize and Bargain Collectively.*—The law does not authorize collective bargaining. The 2007 labor act grants workers the right to pursue litigation.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The government prohibits forced or compulsory labor; however, there were reports that such practices occurred. The government required community service projects to build roads, schools, and hospitals. NGOs reported that, in southern areas of the country where Bhotes were resettled following the move of ethnic Nepalese Bhutanese, the ethnic Nepalese Bhutanese who remained were required to perform a disproportionate amount of compulsory labor. The government and NGOs stated rural workers often volunteered to work on national projects and were paid slightly above the minimum wage.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children, but child labor remained prevalent. The 2007 Labor and Employment Act allows for employment of children between the ages of 13 and 17 in environments that will not damage their health. Children younger than 18 often performed agricultural work and completed chores on family farms or worked in shops after school and during holidays. Girls were employed primarily as domestic workers, where they were vulnerable to abuse and exploitation. The government estimated there were approximately 45,000 persons under 18 who were working. Labor inspectors operating under the Ministry of Labor and Human Resources enforced child labor laws sporadically.

*e. Acceptable Conditions of Work.*—The law addresses issues such as minimum wage, sexual harassment, workers' associations, acceptable forms of child labor, and labor inspection regulations. The national daily wage, also the de facto national minimum wage, was 100 ngultrum (\$2.07) per day, plus various allowances paid in cash or kind; it provided a minimal standard of living for a worker and family. In June 2008 the Ministry of Labor announced it would form a committee to examine the minimum wage in terms of employers' ability to afford the wage, employee productivity, type of work, and cost of living. The committee had not released its findings by year's end. The National Council passed a resolution urging the Ministry of Labor to fix a national minimum wage rather than relying on the national daily wage rate. The workday is defined as eight hours with a one hour lunch break, and employers must grant regular days of rest. Work in excess of this must be paid at one-and-one-half times the normal rate.

All citizens were entitled to free medical care. The government transported persons who could not receive adequate care in the country to other countries (usually India) for treatment. Workers were eligible for compensation in the case of partial or total disability, and in the event of death, their families were entitled to compensation. Existing labor regulations do not grant workers the right to leave work situations that endanger health and safety without jeopardizing their continued employment.

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## INDIA

India is a multiparty, federal, parliamentary democracy with a bicameral parliament and a population of approximately 1.1 billion with an active civil society. It has a federal structure in which the states enjoy a high degree of autonomy, especially on issues of law and order. Manmohan Singh became prime minister for a second term following his Congress Party-led coalition's victory in the April-May general elections, which were considered free and fair, despite scattered instances of violence. Serious internal unrest at times affected the state of Jammu and Kashmir, as well as several states in the Northeast. Although civilian authorities maintained effective control of the security forces, security forces occasionally acted independently of government authority.

The government generally respected the rights of its citizens and made progress in reducing incidents of communal violence, expanding efforts against human trafficking, and reducing the exploitation of indentured, bonded, and child workers but serious problems remained. Major problems included reported extrajudicial killings of persons in custody, disappearances, and torture and rape by police and other security forces. Investigations into individual abuses and legal punishment for perpetrators occurred, but for many abuses, a lack of accountability created an atmosphere of impunity. Poor prison conditions and lengthy detentions were significant problems. Some officials used antiterrorism legislation to justify excessive use of force. Corruption existed at all levels of government and police. While there were no large-scale attacks against minorities during the year, there were reports of delays in obtaining legal redress for past incidents. Some states promulgated laws restricting religious conversion. Violence associated with caste-based discrimination occurred. Domestic violence, child marriage, dowry-related deaths, honor crimes, and female feticide remained serious problems.

Separatist insurgents and terrorists in Kashmir, the Northeast, and the Naxalite (Maoist) belt committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. Insurgents engaged in widespread torture, rape, beheadings, kidnapping, and extortion. The number of incidents declined compared with the previous year.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were credible reports that the government and its agents committed arbitrary or unlawful killings, including extrajudicial killings of suspected criminals and insurgents. A high rate of extrajudicial killings, in which security forces shot and killed alleged criminals or insurgents in staged encounters, occurred in the Northeast, particularly in the states of Assam and Manipur. Sources also reported encounter killings in Jammu and Kashmir, Maharashtra, and Chhattisgarh. Custodial deaths, in which prisoners were killed or died in police custody, remained a serious problem, and authorities often delayed prosecutions. Despite the National Human Rights Commission

(NHRC) recommendations that the Criminal Investigations Department (CID) investigate all police encounter deaths, many states conducted internal reviews only at the discretion of senior officers.

For example, nongovernmental organizations (NGOs) alleged that Chhattisgarh police killed as many as 19 persons on January 8 in Singaram, Dantewara District, Chhattisgarh, in a staged encounter. Police claimed they were involved in a gun battle that resulted in the deaths of 15 Naxalite insurgents and the recovery of large amounts of explosives and weapons; however, reports from local villagers and journalists claimed that the police killed as many as 19 villagers who had no connection to Naxalites. According to these reports, 150 to 170 special police officers rounded up 24 villagers and forced them to put on Naxalite uniforms. Five villagers escaped, but the remaining 19 were shot and killed. Villagers alleged the special police officers raped female victims before killing them. In February the Chhattisgarh High Court directed police to conduct a postmortem examination of the bodies, in response to the petition by human rights groups for a Central Bureau of Investigation (CBI) inquiry into the incident. The case continued in Chhattisgarh High Court at year's end.

On March 17, the NHRC directed the Defense Ministry to pay compensation of rupees 300,000 (\$6,521) to the family of a youth killed in a staged encounter in 2003.

On March 20, the army stated that three soldiers were guilty of killing two civilians on February 22 in Bumai, in Jammu and Kashmir. Authorities initially claimed the victims died in crossfire between militants and security forces. The army ordered disciplinary action against the soldiers.

There were advances in several other notable cases, including the Gujarat High Court's investigation of the killings of at least 95 persons in Naroda Patiya, Gujarat, in 2002. The Supreme Court received the Special Investigation Team (SIT) interim report on the killings on March 2.

Also in March the SIT arrested two highly placed political leaders, Bharatiya Janata Party (BJP) state legislator Maya Kodnani and Vishva Hindu Parishad (VHP) leader Jaydeep Patel, in connection with one of the incidents at Naroda Patiya. Both were released on bail. In October the court filed charges against 62 suspects in relation to the Naroda Patiya incidents, including Maya Kodnani. Their trial, which began on October 27, continued at year's end.

The Supreme Court continued efforts to bring to trial those responsible for 2002 violence following a train burning in Godhra. On April 28, the Supreme Court ordered Gujarat police to register a complaint against Chief Minister Narendra Modi and 60 other high-level officials of the Gujarat government and to investigate their roles in the riots. The court also asked the SIT to review the complaint and to submit a report by December 31. The report had not been submitted at year's end.

On May 1, the Supreme Court ordered the Gujarat High Court to set up fast-track courts in Gujarat to hear several other high-profile cases related to the 2002 Godhra train burning and resulting communal riots. The Supreme Court ordered that witnesses be protected by central police forces rather than Gujarat police and gave the SIT special powers to oversee the prosecutions.

At year's end litigation continued in Gujarat regarding human remains recovered in 2005 and 2006 in Kidiad and near Lunawada, Gujarat. Court-ordered DNA testing identified nine victims of the 2002 violence among the remains. According to government figures, 228 individuals, mainly Muslims, remained missing after the 2002 violence. In February all the missing were assumed dead, and their next of kin were awarded compensation. The official death toll of the 2002 riots increased from 952 to 1,180.

In May, according to Amnesty International (AI), private militia shot and killed Amin Banra, an Adivasi leader, during a protest against forced displacement in Kalinganagar, Orissa. Authorities arrested two persons but failed to investigate reports that the suspects were part of a large private militia.

On May 10, Mumbai police killed alleged criminal Anil Mhatre in an encounter, and on June 19, Maharashtra police killed Vishwanath Munna Katari in an encounter in Nasik. In August the Ministry of Home Affairs (MHA) informed parliament that the NHRC had registered 28 staged encounter cases from January through July.

On May 29, in the Shopian District of Jammu and Kashmir, relatives and police discovered the bodies of two women in a stream. According to media reports, local residents and examining doctors alleged that Indian security forces committed gang rape before killing Neelofar Jan and Asiya Jan, and government officials stated that police involvement in the killings could not be ruled out. On July 15, the High Court ordered the arrest of four police officers on charges of suppressing and destroying evidence in the case. On September 12, the court granted bail to the officers. On

September 17, the CBI took charge of the case from the Special Investigation Team, and on September 29, the CBI exhumed and collected samples from the bodies of the two women. On December 14, the CBI submitted its report to the High Court concluding the women died of drowning and ruling out foul play. The report prompted renewed protests and a general strike in the state. The case remained ongoing at year's end.

On July 23, Manipur's Rapid Action Police Force killed Chongkham Sanjit in Imphal, Manipur. Officials initially claimed they shot him after he fired on them, but a local photographer published pictures of the incident that showed police escorting Sanjit calmly into a pharmacy. When the police emerged from the pharmacy, a witness photographed the officers dragging Sanjit's corpse to a waiting truck. Several days after publication of the photographs followed by violent protests, the local government suspended the six police officers involved and ordered a judicial inquiry.

In August Ahmedabad metropolitan magistrate S.P. Tamang ruled that the 2004 killings of Ishrat Jahan and three others were the result of a staged encounter with Gujarat police. On September 8, the government of Gujarat said it would appeal Tamang's ruling. On September 9, the Supreme Court began hearing complaints regarding the encounter killings of Javed Shaikh (Pranesh Pillai) and Ishrat Jahan in 2004.

The Asian Center for Human Rights reported 1,184 persons killed in police custody from April 2001 to March 2009. Maharashtra recorded 192 deaths, Uttar Pradesh 128, and Gujarat 113.

According to the MHA, 127 deaths took place in police custody in 2008-09. Maharashtra recorded 23 deaths, and Uttar Pradesh recorded 24.

In February the Supreme Court again ruled that authorities should prosecute perpetrators of custodial deaths because failure to do so could "lead to destruction of the criminal justice system." The Asian Center for Human Rights (ACHR) noted that the NHRC's guidelines indicating custodial deaths be reported within 24 hours "continue to be flouted" by the police. Furthermore, the armed forces are not required to report custodial deaths to the NHRC, and the NHRC has no jurisdiction over any violations they may commit, leading to concerns that the states under-reported custodial deaths.

On January 7, the army ordered a high-level inquiry into the death of Abdur Ahad Reshi, a deaf and mute man in Veer Saran Pahalgam in Kashmir.

On March 7, Jammu and Kashmir police registered a complaint against the Central Reserve Police Force (CRPF) for the killing of Sahbir Ahmad Ahangar in Nowhatta.

On March 20, the army held three soldiers, including a junior commissioned officer, accountable for the February 22 killing of two youths in Bomai, Baramulla, in the Kashmir valley. The army initiated an inquiry and took disciplinary action against the three soldiers from the 22 Rasthriya Rifles.

On March 28, the CRPF admitted that two troopers of the 181st Battalion killed Ghulam Mohi-uddin Malik on March 18. After a magisterial inquiry, the CRPF suspended one assistant commandant and the troopers involved in the incident.

On May 18, the army ordered an inquiry into the alleged custodial death of Manzoor Ahmed Beig by the Special Operations Group in Srinagar, Kashmir valley.

On August 15, the government began a phased pullout of 35 CRPF companies from the Kashmir valley.

On September 13, the government ordered a magisterial inquiry into the alleged custodial death of Noor Hussain in Rajouri, Kashmir valley. The police suspended four personnel.

Unlawful killings due to societal violence, including insurgent attacks and vigilante action, continued. The ACHR 2009 India Human Rights report noted that Naxalites were active in at least 15 states, and casualties among civilians and security forces resulting from Naxalite violence exceeded those resulting from violence by separatist insurgents in Jammu and Kashmir.

For example, in February according to AI, "more than 500 armed Maoists raided the Nayagarh district police armory in Orissa, killing 16 police. In an operation following the raid, the Orissa police shot and killed 20 persons in nearby forests claiming them to be Maoists and their supporters."

On May 5, media outlets reported that Naxalites detonated a landmine in Sirguda village, in Chhattisgarh. On July 13, in Chhattisgarh, Naxalites targeted police and killed police superintendent Vinod Kumar Choubey, along with 36 others.

Although the overall levels of societal and insurgent violence declined in Jammu and Kashmir, there continued to be notable incidents. For example, on August 3, the army killed four suspected guerrillas in a gunfight, and a policeman was shot and killed in an ambush in Kashmir. According to media reports, on August 26, general officer commanding-in-chief of the army's strategic Northern Command, Lieu-

tenant General P C Bharadwaj stated that as of August 9 “.26 infiltration bids have been foiled and 57 terrorists killed” in the Kashmir valley.

*b. Disappearance.*—There were credible reports that police throughout the country failed to file required arrest reports for detained persons, resulting in hundreds of unresolved disappearances. Police usually denied these claims. On May 28, the Association of Parents of Disappeared Persons (APDP) stated that 298 persons had disappeared in custody from Jammu and Kashmir since 2002.

On August 23, the Jammu and Kashmir state government claimed that since 1990, 3,429 persons have been reported missing in the state. The APDP maintained that 10,000 persons remained missing.

The central government stated that state government screening committees provided information about detainees to their families, but credible sources stated that families often needed to bribe prison guards to confirm detention of their relatives.

The government made little progress holding police and security officials accountable for disappearances committed during the Punjab counterinsurgency in 1984-94 and the Delhi anti-Sikh riots of 1984, despite the work of a special investigatory commission. In February 2008 the NHRC criticized the Justice Bhalla Commission for its inability to identify the whereabouts of 657 missing victims.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and generally does not allow authorities to admit coerced confessions in court; NGOs and citizens alleged that authorities used torture to extort money, as summary punishment and to coerce confessions. In some instances authorities used the confessions as evidentiary support for death sentences.

The ACHR stated the following in its June report *Torture in India 2009*: “Torture in police custody remains a widespread and systematic practice in India. They also noted the lack of an effective system of independent monitoring of all places of detention facilitates torture.”

NGOs asserted that custodial torture was common in Tamil Nadu, and credible sources claimed police stations in Punjab, Andhra Pradesh, Haryana, and Chandigarh used torture to obtain desired testimony. The Asian Human Rights Committee claimed police used torture and assault in Kerala and Gujarat as a means of criminal investigation.

NGOs claimed the NHRC underestimated the number of rapes, including custodial rapes, that police committed. Some rapes may have gone unreported due to the victims’ feelings of shame and fears of retribution.

On May 29, doctors confirmed that Assiya Jan and her sister-in-law Neelofer had been raped prior to being killed in the Shopian district of Jammu and Kashmir (see section 1.a.), although a subsequent postmortem examination ordered by the CBI in September refuted those findings.

On June 2, a Dalit woman alleged that four Madhya Pradesh police officers gang-raped her while she was in custody in Betul district. The officers claimed the woman was making a false accusation to escape her arrest for harassing her daughter-in-law for dowry. At year’s end a government of Madhya Pradesh internal probe committee continued to investigate the allegation.

An investigation continued into the February 2008 case in which two commandos from the Haryana police allegedly raped a woman after pulling her out of a moving rickshaw.

*Prison and Detention Center Conditions.*—Prison conditions continued to be life threatening and did not meet international standards. Prisons were severely overcrowded, and food and medical care were inadequate. In April 2008 the MHA stated that since 2007, 38,366 cases of human rights violations had been registered in prisons throughout the country. According to a 2007 NHRC report, the country’s prisons, with an authorized capacity of 234,462, held 358,177 persons. The MHA reported that prisons were at 135.7 percent of capacity. In addition, a reported 69.9 percent of the prison population consisted of persons being tried but not yet convicted. Female prisoners accounted for 3.9 percent of the total prison population, and women and men were typically held in separate facilities. According to National Crime Records Bureau (NCRB) 2007 figures, 12 states held women in prisons built exclusively for them. Neither the NHRC nor the MHA has released new figures.

In November the Ministry of Law and Justice informed parliament that as of June there were 27,120,108 cases pending in subordinate courts; as of September there were 53,221 cases pending in the Supreme Court and 4,018,914 in the high courts.

On January 13, the Mumbai High Court ordered the Maharashtra state government to provide voluntary HIV counseling and testing to 7,000 inmates in the state’s four central prisons as part of a campaign to assess HIV prevalence among inmates. In June the Mumbai High Court heard a petition claiming Maharashtra



prisons were failing to follow the National AIDS Control Organization's guidelines by not allowing HIV positive prisoners access to antiretroviral therapy. The prisoner filing the petition has since died. The Mumbai High Court directed the Maharashtra health secretary to submit a report on AIDS-related deaths in prison. The report was pending at year's end.

In September 2007 the NHRC notified Uttar Pradesh's director general of police (DGP) that the conditions in Mirzapur prison for female inmates were extremely poor and lacked medical facilities. Authorities held minor girls in prisons instead of in government homes for children, in violation of the law. The NHRC asked the DGP for a detailed report, which was pending at year's end.

The NHRC asked high court chief justices to resolve the problem of overcrowded prisons. In 2006 the government introduced a plea bargain option to reduce the pending time of cases in trial courts and prison overcrowding. In July the Ministry of Law and Justice informed parliament that 1,563 fast track courts were operational in the country. In November the Ministry of Law and Justice informed parliament that fast-track courts had adjudicated 2,594,231 of the 3,208,911 cases that state high courts had transferred to them.

According to the 2006 NHRC report, a large proportion of deaths in prisons resulted from diseases such as tuberculosis and HIV/AIDS, aggravated by poor prison conditions. The NHRC assigned a special rapporteur to ensure that state prison authorities performed medical checkups on all inmates. According to the MHA, in 2008-09 there were a total of 1,528 deaths in prisons, 90 percent of which were due to natural causes.

By law juveniles must be detained in rehabilitative facilities, although at times they were detained in prison, especially in the rural areas. Pretrial detainees were not separated from convicted prisoners.

The NHRC identified torture and deaths in detention as priority concerns for the commission. The government allowed some NGOs to provide assistance to prisoners, within specific guidelines, but their observations of prison conditions often remained confidential due to agreements with the government. Increased press reporting and parliamentary questioning provide evidence of growing public awareness of custodial abuse.

Prison monitoring by independent groups such as the International Committee of the Red Cross (ICRC) was permitted in many regions, including Jammu and Kashmir, Chhattisgarh, Arunachal Pradesh, and Nagaland. For Manipur and Nagaland, special permits were required for visits. According to the Home Ministry, the ICRC has conducted 832 visits since 2005 in 67 detention centers, including all 25 acknowledged detention centers in Jammu and Kashmir and all facilities where Kashmiris were held elsewhere in the country. The ICRC was not authorized to visit interrogation or transit centers in the northeastern states. Amendments in 2006 to the 1933 Protection of Human Rights Act (PHRA) authorized the NHRC to make surprise visits to state prisons.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but both occurred during the year. According to a May 4 report by Human Rights Watch (HRW), "Police officers sometimes make arrests in retaliation for complaints of police abuse, in return for bribes, or due to political considerations or the influence of powerful local figures."

*Role of the Police and Security Apparatus.*—Although the central government provides guidance and support, the 28 states and seven union territories have primary responsibility for maintaining law and order. The MHA controls most paramilitary forces, the internal intelligence bureaus, and the nationwide police service, and it provides training for senior police officers of the state-organized police forces.

Corruption in the police force was pervasive, which several government officials acknowledged, according to a May 4 HRW report on police abuse. Officers at all levels acted with impunity, and officials rarely held them accountable for illegal actions. When a court found an officer guilty of a crime, the punishment often was a transfer. Human rights activists and NGOs reported that citizens often had to pay bribes to receive police services.

According to the MHA's 2008-09 annual report, with information through March, there had been 1,185 reports of human rights violations countrywide against army and central paramilitary personnel. Authorities investigated 1,162 cases; 1,129 were judged false and 33 genuine. The military imposed penalties on 69 individuals and awarded compensation in six cases.

*Arrest Procedures and Treatment While in Detention.*—The law requires officials to inform detainees of the grounds for arrest and of the right to legal counsel. Arraignment of a detainee must occur within 24 hours, unless the suspect is held under a preventive detention law. In practice many suspects were detained without

charge, mostly in terrorism-related cases. AI reported: "More than 70 persons were detained without charge, for periods ranging from one week to two months in connection with bomb blasts in several states throughout the year. Reports of torture and other ill-treatment of suspects led to protests from both Muslim and Hindu organizations."

Individuals under arrest also have the right to bail and prompt access to a lawyer; those arrested under special security legislation often received neither. By law authorities must allow family members to have access to detainees. In practice authorities granted access only occasionally.

In 2004 the government repealed the Prevention of Terrorism Act (POTA) and replaced it with the Unlawful Activities Prevention Act (UAPA). The revised UAPA was intended to provide broader protection for human rights. The South Asia Human Rights Documentation Centre (SAHRDC) reported that more than 1,000 persons remained in detention under POTA. In December 2008 Union Minister Kapil Sibal announced that there were 90 to 100 pending POTA cases. SAHRDC did not change those numbers during the year.

As of year's end, approximately 80 Muslims accused of the 2002 Godhra train burning remained in jail in Gujarat under POTA, despite a POTA review committee ruling in 2005 that POTA did not apply to them, an October 2008 ruling by the Indian Supreme Court granting their release, and a Gujarat High Court ruling in February that POTA charges did not apply to the accused. The Supreme Court suspended the trial of the Godhra train-burning suspects until April. A fast-track trial of the suspects began in September and continued at year's end.

Despite the parliament's 2004 repeal of POTA and the introduction of UAPA, state governments held persons without bail for extended periods before filing formal charges. For example, four alleged Naxalite sympathizers (Arun Ferreira, Sridhar Srinivasan, Murli Ashok Reddy, and Vernon Gonsalves) were arrested in Maharashtra under UAPA in 2007. They remained in jail near Mumbai at year's end.

Maharashtra police made "preventive arrests" in the name of curbing public unrest. For example, in July Mumbai police detained two Muslim activists on the eve of a foreign minister's visit to Mumbai; the detention continued for the duration of the visit on the suspicion that they might engage in public protest. In August the activists filed a case in the Mumbai High Court against the government of Maharashtra and against the Mumbai police.

The National Security Act (NSA) allows police to detain persons considered security risks anywhere in the country, except Jammu and Kashmir, without charge or trial for as long as one year. The law stipulates that family members and lawyers can visit NSA detainees and that authorities must inform a detainee of the grounds for detention within five days (10 to 15 days in exceptional circumstances). In practice these rights sometimes were not enforced.

On June 2, police detained five Manipur University students in Imphal under the NSA on charges of connection with militant organizations involved in the killing of a professor. The students remained in custody, and the cases were pending at year's end.

On March 29, BJP member Varun Gandhi was arrested under the NSA for inciting communal tensions and for engaging in "hate speech." The BJP, however, claimed the arrest was politically motivated, and Varun challenged the accusation in court. On May 14, the Supreme Court revoked the NSA charge.

The Public Safety Act (PSA), which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge or judicial review for as long as two years. During this time family members do not have access to detainees, and detainees do not have access to legal counsel. In 2005 the NHRC set guidelines regarding arrest under the PSA that included establishing reasonable belief of guilt, avoiding detention if bail is an option, protecting the dignity of those arrested, prohibiting public display or parading, and allowing access to a lawyer during interrogation. In practice police routinely employed arbitrary detention and denied detainees, particularly the destitute, access to lawyers and medical attention. According to media reports, since 2004 Indian authorities arrested approximately 2,700 Kashmiris under the PSA. On August 28, the state government announced that officials had detained 121 persons under the PSA during the year. On October 20, five persons were released under the PSA, including Hurriyat Conference leader Shabir Shah.

On February 5, the Jammu and Kashmir High Court overturned the detentions of 10 persons arrested under the PSA during Amarnath land transfer agitation in 2008.

On April 18, the Jammu and Kashmir Bar Court Association informed the State Assembly that lawyers had filed 2,223 PSA petitions since 2004.

On May 26, police placed Syed Ali Shah Geelani, chairman of a faction of the separatist Hurriyat Conference, under house arrest. Police invoked the PSA and accused him of leading protests regarding the rape and killing of two Shopian women and an alleged police cover-up of those events (see section 1.a.). On June 7, Geelani was transferred to the Cheshmashah jail. In July the Jammu and Kashmir High Court overturned the PSA charges against Geelani and directed authorities to release him; they did so on September 9.

On August 11, Chief Minister Omar Abdullah told the state legislative assembly that high-level state screening committees review PSA cases and make recommendations to the government regarding release. Based on these recommendations, 21 detainees were released during 2008 and 44 more were released during the year.

In October the Jammu and Kashmir High Court dismissed the PSA detentions of Muhammad Saleem Nunnaji, Shakeel Ahmad Rather, Khursheed A Lone, Mohammad Abbas Parray, Sarfaraz Ahmad, Mohammad Shafi Chopan, Tariq Ahmad Lone, and Javed Ahmad Pathan, all of whom authorities had arrested for protesting during the 2008 Amarnath shrine controversy.

In 2005 the Chhattisgarh state government enacted the Special Public Security Act (SPSA), which permits detention for as long as three years for loosely defined unlawful activities. NGOs criticized the law as overly broad. Human rights groups voiced concerns that the law criminalizes any support given to Naxalites, even support provided under duress.

On May 26, the Indian Supreme Court granted bail to Binayak Sen, a human rights activist from the People's Union of Civil Liberties (PUCL). Police arrested Binayak in 2007 under the Chhattisgarh SPSA for alleged links with Maoists. The trial was underway in a special court in Raipur at year's end.

In 2005 the PUCL filed a petition challenging the SPSA in the Supreme Court, but the court said the law had to be challenged in the state's high court instead. In April the Chhattisgarh High Court accepted the PUCL's petition regarding the SPSA's constitutionality. The petition argued that the act's definition of illegal activities and legal organizations was ambiguous and barred democratic protest and organizations. By year's end the state had not filed its response to the petition.

The Armed Forces Special Powers Act (AFSPA) remained in effect in Nagaland, Manipur, Assam, and parts of Tripura, and a version of the law was in effect in Jammu and Kashmir. Under the AFSPA, the government can declare any state or union territory a "disturbed area," a declaration that allows security forces to fire on any person to "maintain law and order" and to arrest any person "against whom reasonable suspicion exists" without informing the detainee of the grounds for arrest. The law also gives security forces immunity from prosecution for acts committed under the AFSPA.

In August police used the AFSPA to arrest an 11-year-old Manipur girl to force her parents, suspected of helping local armed opposition groups, to surrender to police. According to AI, the police claimed they had taken the girl for medical treatment after she fainted, but they could not explain why they did not take her to a hospital for treatment. The police released the girl after they arrested her parents.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the government generally respected this provision. In Jammu and Kashmir, insurgents sought to threaten and intimidate members of the judiciary.

The Supreme Court heads the judicial system and has jurisdiction over constitutional matters and the decisions of state high courts, state lower courts, and special tribunals. Lower courts hear criminal and civil cases, and appeals go to state high courts. The president appoints judges, who may serve until the age of 62 on state high courts and 65 on the Supreme Court.

The legal system continued to be overburdened, often delaying justice. On February 13, A.P. Shah, chief justice of Delhi High Court, announced it would take 466 years for the courts to clear the existing backlog of cases. He stated that the backlog resulted from an inadequate number of judges. There were only 32 judges appointed to the High Court instead of the mandated 48. In September 2008 Supreme Court Chief Justice Balakrishnan reported that 610,000 cases were pending in the lower courts, and the Delhi High Court had 330,000 pending cases. Many citizens reported that they offered bribes to move cases through the court system.

On May 1, the Supreme Court ordered the Gujarat High Court to set up fast-track courts in that state to hear several cases associated with the 2002 violence. The Supreme Court ordered that central police forces rather than Gujarat police protect witnesses and gave the SIT special powers to oversee the prosecutions. Trials commenced for two incidents, the Godhra train burning and the Gulberg Society case regarding the killing of Congress Party leader Ehsan Jafri. Both trials continued at year's end.

*Trial Procedures.*—The criminal procedure code provides for public trials, except in proceedings that involve official secrets, trials in which someone might make statements prejudicial to the safety of the state, or under provisions of special security legislation. Defendants enjoy the presumption of innocence and can choose their counsel. Courts must announce sentences publicly and there are effective channels for appeal at most levels of the judicial system. The state provides free legal counsel to indigent defendants, but in practice access to competent counsel often was limited, especially for the poor, and the overburdened justice system usually resulted in major delays in court cases.

The law allows defendants access to relevant government evidence in most civil and criminal cases; the government reserved the right to withhold information and did so in cases it considered sensitive.

Courts in Jammu and Kashmir often were reluctant to hear cases involving insurgent and terrorist crimes and failed to act expeditiously, if at all, on habeas corpus cases. According to a study by the South Asia Forum for Human Rights and the Centre for Law and Development, thousands of habeas corpus cases were pending in the courts throughout the Kashmir valley.

*Political Prisoners and Detainees.*—NGOs reported that Jammu and Kashmir held political prisoners, and the government from time to time temporarily detained hundreds of persons characterized as terrorists, insurgents, and separatists. Human rights activists based in the state estimated there were 150 political prisoners. Prisoners arrested under one of the special antiterrorism laws often were not formally charged, nor did their family or other visitors have access to them.

On May 27, police arrested Marimuthu Barathan of the Human Rights Education and Protection Council. Barathan had been working closely with Dalit communities in Tirunelveli, Tamil Nadu. Police accused Barathan of the January 11 killing of a man named Madhan, who had allegedly killed 20 Dalits earlier that day. On June 27, authorities released Barathan from prison on bail. A hearing was pending at year's end.

On August 28, the Jammu and Kashmir state government informed the state legislative assembly that 121 persons had been arrested under the PSA between January and July. In August the All Parties Hurriyat Conference (APHC) released a list of 19 activists arrested as a result of protests of the Shopian incident (see section 1.a.).

In August 2008 police arrested 100 activists, including leaders of the APHC and the Jammu and Kashmir Liberation Front, in connection with the Amarnath shrine controversy and the subsequent protests they led. They were all quickly released, but officials held APHC leaders Shabir Shah and Asiya Andrabi under the PSA. Shah was released on September 12, and Asiya was released and rearrested on September 15 but released later that month.

*Civil Judicial Procedures and Remedies.*—The NHRC is an independent and impartial investigatory and judicial body the government established in 1993 under the provisions of the Protection of Human Rights Act. Its mandate is to address violations of human rights or negligence in the prevention of violations by public servants, intervene in judicial proceedings involving allegations of human rights violations, and review any factors (including acts of terrorism) that infringe on human rights. The NHRC also recommends appropriate remedies for alleged wrongs by offering compensation to the families of individuals killed or harmed extrajudicially by government personnel. The NHRC is not empowered to address allegations leveled against military and paramilitary personnel.

According to the Web portal NGOs India, individuals or NGOs can file Public Interest Litigation petitions in any high court or directly in the Supreme Court to seek judicial redress of public injury. These injuries may have been a result of a breach of public duty by a government agent or as a result of a violation of a provision of the constitution. Public interest litigation provides for public participation in judicial review of administrative action by allowing the public to directly seek legal redress.

*g. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits arbitrary interference, and the government generally respected these laws in practice; however, at times the authorities infringed upon the right to privacy. Police are required to obtain warrants to conduct searches and seizures, except in cases in which such actions would cause undue delay. Police must justify warrantless searches in writing to the nearest magistrate with jurisdiction over the offense. In Jammu and Kashmir, Punjab, and Manipur, authorities have special powers to search and arrest without a warrant.

The Information Technology Act allows police under certain circumstances to search premises and arrest individuals without a warrant. The act specifies a one-

year sentence for persons who fail to provide information to the government on request and a five-year sentence for transmitting “lascivious” material.

The Indian Telegraph Act authorizes the surveillance of communications, including monitoring telephone conversations and intercepting personal mail in cases of public emergency or “in the interest of the public safety or tranquility.” The central government and state governments used these surveillance techniques during the year.

Although the Telegraph Act gives police the power to intercept telephone conversations, that evidence is generally inadmissible in court. The Unlawful Activities Prevention Act allows use of evidence obtained from intercepted communications in terrorist cases.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Insurgent groups killed members of rival factions, government security forces, government officials, and civilians in Jammu and Kashmir, in several northeastern states, and in the Naxalite belt in the eastern part of the country.

*Killings.*—Security forces allegedly staged encounter killings to cover up the deaths of captured militants. Human rights groups claimed police refused to turn over bodies in cases of suspected staged encounters. In 2002 the Supreme Court ordered the central government and local authorities to conduct regular checks on police stations to monitor custodial violence, but government officials often failed to comply with the order.

Although there were significant improvements during the year, human rights groups reported that security forces in Jammu and Kashmir targeted suspected terrorists, insurgents, and their supporters. There was little consensus about the magnitude of extrajudicial killings and custodial deaths.

In January the MHA stated in its most recent annual review that during 2008, terrorist incidents in Jammu and Kashmir had decreased by 39 percent, killings of civilians by 41 percent and of security forces by 31 percent, compared with 2007. The Jammu and Kashmir director general of police, Kuldeep Khoda, stated in December 2008 that the year witnessed a 40 percent decrease in militancy-related incidents compared with 2007.

In November the MHA informed parliament that 268 civilians and security forces and 472 militants died or were killed in Jammu and Kashmir in the first 10 months of the year.

Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, military and paramilitary forces continued to hold numerous persons. Human rights activists feared that many of these unacknowledged prisoners were tortured and some may have been killed.

Investigations continued throughout the year regarding the November 2008 terrorist attacks in Mumbai that killed 173 persons and injured at least 308. Mohammed Ajmal Amir Kasab, the only terrorist captured alive, disclosed that the attackers belonged to Lashkar-e-Toiba (LeT).

Violence between the government and Naxalite (Maoist) insurgents also continued. On June 12, Naxalites detonated a landmine in the Nawadih area of Jharkhand, killing at least 11 security officers.

On June 20, Naxalites at Tonagapal, Chhattisgarh, set off a mine blast that killed 12 CRPF officers. Maoists also opened fire in an ambush of a police patrol. The police returned fire and killed seven insurgents.

On June 22, the central government declared the Communist Party of India Maoist (Naxalites) a terrorist organization.

On July 8, the MHA released figures indicating that Naxalite violence had caused the deaths of as many as 455 persons (255 civilians and 200 security personnel) in the first half of the year. The states of Chhattisgarh and Jharkhand accounted for 60 percent of insurgent deaths in the country in this period. There were 148 deaths in Chhattisgarh and 122 in Jharkhand. Of the 107 Naxalites killed in the same period, 63 died in Chhattisgarh.

On July 12, Naxalites allegedly killed 30 police personnel in two separate incidents in the Rajnandgaon District of Chhattisgarh.

On September 17, Naxalites fired on members of the CRPF's Combat Battalion for Resolute Action (CoBRA) and the Chhattisgarh Police, killing six officers, including assistant CoBRA commandants Manoranjan Singh and Rakesh Chaurasia.

On September 19, security personnel shot approximately two dozen Naxalites in the Dantewada district of Chhattisgarh. During the exchange the Naxalites killed an assistant CoBRA commandant.

On September 28, security forces killed three alleged LeT terrorists, including two individuals from Pakistan, in an encounter in south Kashmir. A woman also died

in the crossfire. The media reported that security forces killed 11 alleged terrorists from September 20 to 25.

On October 7, alleged Naxalites beheaded a civilian at Kurkheda, Jharkhand, a day after Jharkhand police recovered the decapitated body of Police Inspector Francis Enduwar, who had been abducted on September 30.

On October 8, Naxalites shot and killed 17 policemen in a firefight in a forest along the Maharashtra-Chhattisgarh border.

In November the MHA informed parliament that 577 security forces and civilians and 514 militants were killed in the Northeast during the first 10 months of the year.

According to data provided October 12 in the South Asia Terrorism Portal database, 788 persons (261 civilians, 293 security forces personnel, and 234 militants) were killed as a result of violent clashes during the year. At least 74 major incidents of violence involving Naxalites were reported, resulting in the deaths of 366 persons, including 138 civilians, 124 security forces personnel, and 104 Maoists.

*Abductions.*—On July 6, the human rights group Press for Peace demanded the release and safety of two Kashmiri women kidnapped by local Muzaffarabad residents while the women were in police custody. The press reported the abductions occurred in relation to a dowry dispute.

On July 15, Daleep Kumar, the father of a missing 14-year-old boy, filed a complaint against a soldier, Ram Lal of 25 Rajput Regiment, for allegedly abducting the boy from near the Line-of-Control in Rajouri District of Jammu and Kashmir. At year's end the case was under review at the police station in Bhawani.

On August 2, militants abducted and beheaded civilian Ali Saeed near his home in Rajouri District, Kashmir. There were several media reports stating that the militants may have believed that Saeed was working with Kashmiri security forces.

*Physical Abuse, Punishment, and Torture.*—On February 3, members of the regional political party Maharashtra Navnirman Sena (MNS) assaulted and injured 10 persons attending a rally in Mumbai. MNS members continued attacks over the next several days in Mumbai, Pune, and Nasik. Although police did not stop the attacks, they later arrested more than 60 MNS members and ordered a probe into abusive remarks made by MNS chief Raj Thackeray. MNS activists allegedly threatened north Indians in Nasik and Pune, and many laborers fled the state. MNS activists allegedly hit one person with stones; he later died of his injuries. Police charged Thackeray with inciting violence and twice briefly arrested him. On February 22, the Supreme Court condemned Thackeray's inflammatory remarks against north Indians. The investigation of the February incidents continued at year's end.

An investigation continued at year's end into the October 2008 MNS assaults on north Indian candidates who were in Mumbai for an Indian Railways recruitment examination.

*Child Soldiers.*—According to a report the Indian National Commission for the Protection of Child Rights released January 23, recruitment of child soldiers by insurgent groups rose in 2008. The report also noted that Naxalites formed a children's division. NGOs alleged that militants often used the children as shields against government security forces. The report also stated that Naxalites were recruiting children in Orissa. The UN conducted investigations into these allegations throughout the year. There were no credible reports of any government security forces using child soldiers during the year.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and expression, but it does not explicitly mention freedom of the press. The government generally respected these rights in practice. Under the 1923 Official Secrets Act, the government may prosecute any person who publishes or communicates information that could be harmful to the state.

The Press Council, a statutory body of journalists, publishers, academics, and politicians with a government-appointed chairman, investigates what it considers irresponsible journalism and sets a code of conduct for publishers. The code includes injunctions against publishing stories that might incite caste or communal violence. The council publicly criticized those it believed had broken the code.

Independent newspapers and magazines regularly published and television channels broadcast investigative reports, including allegations of government wrongdoing, and the media generally promoted human rights and criticized perceived government violations.

Private entities owned most print media and 80 percent of television stations.

With the exception of radio, foreign media generally operated freely. Widely distributed private satellite television provided competition for Doordarshan, the gov-

ernment-owned television network. Although there were allegations that the government network manipulated the news, some privately owned satellite channels promoted the platforms of political parties their owners supported. On September 19, the cabinet authorized foreign news magazines to print local editions of their publications. Previously the government had allowed foreign magazines to print only scientific, technical, and specialty periodicals.

The government often held foreign satellite broadcasters, rather than domestic cable operators, liable under civil law for what it deemed objectionable content on satellite channels—notably, tobacco and alcohol advertisements and adult content.

AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legal, but licenses authorized only entertainment and educational content. Officials prohibited local editions of foreign publications, but the government allowed country-specific editions to be published by local companies with no more than a 26 percent foreign partnership.

The authorities generally allowed foreign journalists to travel freely, including in Jammu and Kashmir, where they regularly met with separatist leaders and filed reports on a range of topics, including government abuses. Nonetheless, in May Reporters Without Borders reported that the government had denied a press visa to Hasnain Kazim, a German journalist of Indian origin. They stated that Indian diplomats acknowledged to German officials that visa denial was linked to the government's view that his articles were overly critical and biased against the government and therefore illegal.

In Jammu and Kashmir, the Newspapers Incitements to Offenses Act allows a district magistrate to prohibit publication of material likely to incite violence. Newspapers in Srinagar were able to report in detail on alleged human rights abuses by the government, and separatist Kashmiri groups regularly issued press releases. Due to the threat of violence by extremist groups, many journalists self-censored their articles. Some smaller media outlets also self-censored for fear of losing state government advertising revenue. The press in Jammu and Kashmir was vibrant, with more than 30 daily newspapers.

The central government maintained a list of banned books that were not permitted to be imported or sold in the country because they contained material that government censors deemed inflammatory and apt to provoke communal or religious tensions. The Rajasthan government continued to ban the books *Haqeeqat* (The Truth) and *Ve Sharm Se Hindu Kahate Hain Kyon?* (Why Do They Say With Shame They Are Hindus?) because of alleged “blasphemy against Hindu gods.”

On June 5, Jammu and Kashmir Chief Minister Omar Abdullah banned the operation of a local cable channel for allegedly televising inflammatory news leading to violence following the rape and murder of two women in Shopian. On June 6, the state government directed all private news channels to restrict daily news bulletins to 15 minutes. The government lifted the ban and restrictions after a few days.

On August 19, the Gujarat government attempted to ban Jinnah: India-Partition-Independence for carrying defamatory language against Sardar Vallabhai Patel due to concerns that the comments would provoke communal clashes. On September 4, the Gujarat High Court struck down the ban, stating it was against fundamental rights and freedom of expression.

*Internet Freedom.*—There were government restrictions on access to the Internet and reports that the government occasionally monitored users of digital media. According to Freedom House, there were approximately 82 million Internet users in the country.

According to Freedom House, the Indian Computer Emergency Response Team created by the government in 2003 to review “requests from a designated pool of government officials to block access to websites” engaged in Internet censorship and filtering.

A 2008 amendment to the Information Technology Act reinforced the government's power to block Internet sites and content, and it criminalized the sending of messages it deemed inflammatory or offensive. Both central and state governments have the power to issue directions for the interception, monitoring, or decryption of computer information.

*Academic Freedom and Cultural Events.*—The government continued to apply restrictions to the travel and activities of a few visiting experts and scholars. Academic guidelines issued by the Ministry of Human Resources Development (MHRD) in 2003 remained in effect and required all central universities to obtain MHRD permission before organizing “all forms of foreign collaborations and other international academic exchange activities,” including seminars, conferences, workshops, guest lectures, and research. Although the restrictions remained in force, in most

cases the MHRD permitted the international academic exchanges to take place after bureaucratic delays.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected this right in practice.

*Freedom of Assembly.*—Authorities normally required permits and notification before parades or demonstrations, and local governments generally respected the right to protest peacefully, except in Jammu and Kashmir, where the local government sometimes denied permits to separatist parties for public gatherings and detained separatists engaged in peaceful protest. During periods of civil tension, authorities used the criminal procedure code to ban public assemblies or impose a curfew.

On June 29, police shot and killed two persons in Baramulla who were protesting a policeman's alleged harassment of a woman.

On June 30, police killed two persons participating in demonstrations following the May rape and killing of two women in Shopian.

On July 3, violent protests erupted in the Kashmir valley over the police shooting of four youths and the disappearance of another man. More than 30 persons were injured in clashes between protesters and security forces. Clashes also erupted in Sopore in response to the same incident. Police and the paramilitary CRPF used tear gas and batons to disperse the protesters.

On September 16, police shot and killed three persons in Bhopal, Madhya Pradesh. The villagers were protesting police failure to trace an individual who had been missing for more than two months.

On October 26, police injured four persons in Jammu and Kashmir who were protesting the killing of a man by soldiers after he allegedly intruded into an army camp. Media reports indicated police used batons and fired teargas shells to disperse the protesters.

*Freedom of Association.*—The law provides for the freedom of association, and the government generally respected this right in practice.

NGOs must secure approval from the MHA before organizing international conferences. Human rights groups contended that this practice provided the government with political control over the work of NGOs and restricted their freedom of assembly and association.

*c. Freedom of Religion.*—The law provides for secular government and the protection of religious freedom, and the central government generally respected these provisions in practice. The country's longstanding democratic system, open society, independent legal institutions, vibrant civil society, and media all continued to provide mechanisms to address violations of religious freedom when they occurred.

According to the Ministry of Minority Affairs' annual report for 2008-09, the National Commission for Minorities received 2,250 total complaints: 1,474 from Muslims, 183 from Christians, 151 from Sikhs, 42 from Buddhists, and the remainder from other small groups.

Some groups interpreted ineffective investigation and prosecution of past attacks on religious minorities, particularly at the state and local levels, as creating an atmosphere of impunity. The country's federal political system accords state governments primary jurisdiction over maintaining law and order, which limited the national government's capacity to deal directly with state-level abuses, including abuses of religious freedom.

The law mandates benefits for certain groups, including some defined by their religion. For example, the government allowed educational institutions administered by minority religions to reserve seats for their coreligionists even when the institutions received government funding. Article 17 of the constitution outlawed untouchability, but members of lower castes remained in a disadvantageous position. A quota system reserved government jobs and places in higher education institutions for Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes members belonging to the Hindu, Sikh, and Buddhist religious groups, but not for Christians or Muslims. Christian groups filed a court case demanding that converts to Christianity and Islam enjoy the same access to "reservations" as other SC groups. The Supreme Court was considering the case at year's end.

On June 23, the Ministry of Minority Affairs announced in parliament the prime minister's 15-Point Program for the Welfare of Minorities, which provided reservations for minorities in addition to the SC and ST quotas. Christians and Muslims became eligible for these reservations, and the program allowed special considerations in job recruitment as well as representation on selection committees. The new program provided scholarships and coaching to enable minorities to compete more effectively for opportunities. The Ministry of Minority Affairs monitored the program quarterly.



In November the MHA informed the parliament that 663 cases of communal incidents of violence, including (but not limited to) riots and ethnic strife, had occurred as of September. Uttar Pradesh had the highest number at 126, followed by Maharashtra at 111.

The law criminalizes the use of any religious site for political purposes or the use of temples to harbor persons accused or convicted of crimes. The Religious Buildings and Places Act requires a state government permit before construction of any religious building. NGOs and activists expressed concern that the act would be enforced only for religious buildings of minority religious groups. In September the Supreme Court issued an order disallowing new construction of places of worship in public places.

There are active "anticonversion" laws in five of the 28 states: Gujarat, Orissa, Chhattisgarh, Madhya Pradesh, and Himachal Pradesh; however, there were no reports of convictions under these laws during the year. Arunachal Pradesh has an inactive "anticonversion" law awaiting regulations needed for enforcement.

In 2007 the Andhra Pradesh government enacted a law limiting the "propagation of other religion in places of worship or prayer." The law forbids the distribution of literature of one religion within the vicinity of a designated place of worship of a different religion. There were reports from faith-based media of approximately 17 arrests under state-level "anticonversion" and other restrictive laws in Chhattisgarh, Madhya Pradesh, and Maharashtra during the period July 2008 through June. Of the 17, seven were reports from Chhattisgarh and six from Madhya Pradesh. In most cases police allowed the arrestees to post bail and released them after a night in jail. Faith-based NGOs alleged the arrests were intended to discourage Christian prayer meetings.

There is no national law barring a person from professing or propagating religious beliefs, but the law prohibits international visitors on tourist visas from engaging in religious proselytizing without prior permission from the MHA. Officials granted foreigners permission to travel to some northeastern states on a case-by-case basis due to political instability and security concerns. Missionaries and religious organizations must comply with the Foreign Contribution and Regulation Act (FCRA), which restricts funding from abroad. The government can ban a religious organization that violates the FCRA, provokes intercommunity friction, or has been involved in terrorism or sedition.

The legal system accommodates religious minorities by allowing different personal laws for religious communities. Religion-specific laws are paramount in matters of marriage, divorce, adoption, and inheritance. The personal status laws of some religious communities sometimes disadvantaged women within their families and communities.

The law limits inheritance, alimony payments, and property ownership of persons from interfaith marriages and prohibits the use of churches for marriage ceremonies in which one party is a non-Christian. Clergymen who break the law may face as long as 10 years' imprisonment, but the act does not bar interfaith marriages.

On June 4, the government of Gujarat appointed a commission of inquiry to study settlement patterns in Gujarat from independence in 1947 until the present. The commission's mandate was to identify the areas occupied by persons of different religious faiths and their migration patterns and to give recommendations for "stopping the polarization of population in the state." Human rights groups criticized the choice of a judge as the single member of the commission because they alleged he had made several anti-Muslim rulings. The groups also voiced concern that detailed mapping of Hindu and Muslim residential localities could be used for targeting victims in subsequent riots. The government asked the commission to submit its report by January 2011.

The August 2008 killing of a popular Hindu religious leader sparked a wave of retaliatory violence in the remote, sparsely populated tribal area of Kandhamal, Orissa. According to widely accepted government statistics, 40 persons died and 134 were injured. Although most of the victims were Christians, the underlying causes that led to the violence had complex economic, religious, and political roots related to land ownership and government-reserved employment and education benefits. Relief camps that opened in 2008 to shelter the 24,000 persons displaced by the violence were closed during the year, but some NGOs reported that villagers were unable to return to their villages, and others who tried were threatened or asked to abandon their religious beliefs as a condition for return. The state continued to pursue fast-track court cases against the suspected killers of the religious leader. Fast-track proceedings also were underway in relation to the 300 open cases that resulted from the rioting that left 40 dead. In addition, the state also began to address the underlying socioeconomic causes of the violence.

On January 5, a Catholic nun who allegedly was raped during the September 2008 Kandhamal riots identified two of the three individuals who attacked her. On June 23, she identified the last of her attackers. At year's end a fast-track court process continued in the case.

Prosecutions for the Orissa violence continued in a fast-track court, and approximately 60 to 70 convictions and 100 acquittals resulted. On July 26, five persons were convicted and sentenced to six years' imprisonment. On September 7, six persons were convicted and sentenced to four years' imprisonment and fined 2,000 rupees (approximately \$40).

In September 2008 militant Hindu activists attacked Christian churches in and around Mangalore, Karnataka. Three Christians were critically injured and more than a dozen others were assaulted. Mahendra Kumar, the local leader of the Hindu Bajrang Dal organization, claimed responsibility, stating the attacks were in response to "forced conversions" and insults toward Hindu deities. On November 13, a fast-track court acquitted six suspects, bringing the total number of acquittals to 121, with 27 convictions. At year's end, the state-initiated judicial inquiry into the attacks continued, but Christian groups and media sources expressed doubts about its impartiality.

On April 9, more than 500 protesters from Sikh organizations protested outside a New Delhi judicial court that was scheduled to hear arguments in favor of closing the case against Congress Party leader Jagdish Tytler regarding his alleged participation in the 1984 anti-Sikh riots. Later that day Tytler announced his decision to pull out of the Lok Sabha elections. A lawyer representing victims of the 1984 anti-Sikh violence claimed supporters of Tytler had threatened him.

On May 5, riots occurred in Punjab after members of a Sikh sect in Austria killed a preacher from a rival sect who had traveled to Vienna to conduct a special service. Within hours of the incident in Vienna, thousands of protesters in Punjab clashed with police and engaged in vandalism. In Jalandhar police fired on rioting mobs, killing one man and injuring at least four persons.

On June 16, the Punjab government banned a textbook that allegedly contained objectionable remarks against Maharishi Valmiki on the grounds that it might hurt the sentiments of a large section of society. Maharishi Valmiki authored the Hindu epic Ramayana.

On June 23, a fast-track court charged 73 persons for murder, attempted murder, criminal conspiracy, rioting, looting, and other violations of the penal code during post-Godhra riots in Sardarpura, Gujarat. During the riots 33 minority community members were killed, and an estimated 8.5 million rupees (approximately \$170,000) worth of property was damaged. Hundreds of other court cases stemming from the 2002 violence in Gujarat remained unsettled.

On August 26, the Delhi High Court sentenced four persons to life imprisonment for their involvement in the 1984 anti-Sikh riots. The court imposed a fine of 21,000 rupees (approximately \$477) on Lal Bahadur, Ram Lal, Virender, and Surinder Pal Singh after finding them guilty of rioting, murder, and conspiracy. NGOs reported that numerous cases related to the riots had not been resolved.

On September 30, a New Delhi city court acquitted Jagdish Singh, Sajjan Singh, and Ishwar Singh, accused of leading a mob that lynched a man during the 1984 anti-Sikh riots.

*Societal Abuses and Discrimination.*—The MHA's 2008-09 annual report stated there were 943 cases of communal violence in 2008 in which 167 persons were killed and 2,354 were injured. These attacks occurred against several different communities, including Christian, Hindu, and Muslim. In 2008 Hindu-Christian communal riots resulted in the deaths of 44 persons and injuries to 82. No further updated figures were available.

Several human rights and religious freedom NGOs continued to express concern about sporadic anti-Christian violence in some states governed by the BJP and claimed some attackers had affiliations with the Hindu extremist group Rashtriya Swayamsevak Sangh.

Muslims in some Hindu-dominated areas continued to experience discrimination and reported poor government response to their concerns, which limited their access to work, residency, and education.

On July 2, rioting in Karnataka between Muslims and Hindus resulted in three deaths after a dead pig was thrown into the compound of a mosque that was under construction. More than a dozen individuals were injured in the clashes.

Hindu organizations frequently alleged that Christian missionaries forced or lured Hindus, particularly those of lower castes, to convert to Christianity. Such allegations fomented anti-Christian violence.

On October 25 in Madhya Pradesh, 11 Hindu extremists assaulted a Protestant clergyman. On the same date, in Karnataka, approximately 50 Hindus stormed an

Assembly of God church, disrupting Sunday worship. They beat the clergyman, burned Bibles, and threatened worshippers.

On several occasions, extremist Hindu groups in Karnataka's Dakshina Kannada district attacked young women visiting pubs, as well as Muslim boys found speaking to Hindu girls. On January 25, members of Sri Ram Sene, a right-wing group, beat and molested young women in Amnesia Lounge Bar in Mangalore, ostensibly to protect Indian culture from behavior the activists perceived as inappropriate, such as wearing western clothes, drinking, smoking, and dancing with men.

On February 26, the Hindu daughter of a legislator in Kerala was attacked while she was talking to a male Muslim friend on a bus. Sri Ram Sene activists reportedly proceeded to harass the two and forced them off the bus. The girl was released after the assailants became aware of her identity, but they repeatedly assaulted her Muslim friend. The BJP government termed both attacks as trivial. The media characterized the attacks as "Talibanization," which in turn prompted the central government to reprimand the state government. Media sources alleged that such "morality" vigilantism continued in remote parts of the district.

Most Indian Jews emigrated to Israel in 1948, but there were small, active communities primarily based in Mumbai, with a total estimated population of 1,500 persons. During the November 2008 attacks in Mumbai, terrorists allegedly belonging to LeT attacked the Jewish Chabad-Lubavitch center at the Nariman House as part of coordinated attacks on high-profile civilian targets in the city. The attackers killed six Jewish persons from the United States, Israel, and Mexico before security forces killed the attackers. The attackers also killed Hindus, Muslims, Christians, Sikhs, and Parsis. The trial of the sole surviving alleged gunman in the attacks began in March.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement, and the government generally respected this in practice, although special permits are required for the northeastern states and parts of Jammu and Kashmir.

Security forces often searched and questioned vehicle occupants at checkpoints, mostly in troubled areas in the Kashmir valley or after major terrorist attacks. The government also completed construction (except in areas of difficult terrain) of a 330-mile security fence along the Line-of-Control in Jammu and Kashmir, causing difficulties as the fence cuts through some villages and agricultural lands. The government attributed a decline in insurgent crossings in part to the fence.

The government legally may deny a passport to any applicant who it believes may engage in activities outside the country "prejudicial to the sovereignty and integrity of the nation." The government prohibited foreign travel by some government critics, especially those advocating a Sikh homeland and members of the separatist movement in Jammu and Kashmir.

Unlike in previous years, there were no reports of the government using the issuance of passports or travel documents to restrict travel of separatist leaders in Jammu and Kashmir. Citizens from Jammu and Kashmir continued to face extended delays, often as long as two years, before the Ministry of External Affairs would issue or renew their passports. Government officials demanded bribes for applicants from Jammu and Kashmir who required special clearances. The government subjected applicants born in Jammu and Kashmir—even the children of serving military officers born during their parents' deployment in the state—to additional scrutiny, requests for bribes, and police clearances before issuing them passports.

There was no law banning forced exile and no reports of forced exile during the year.

*Internally Displaced Persons (IDPs).*—According to the Norwegian Refugee Council, regional conflicts in Jammu and Kashmir, Gujarat, and the Northeast displaced at least 650,000 persons. According to the MHA's 2008-09 annual report, there were 55,000 Kashmiri Pandit migrant families, of whom 34,878 resided in Jammu, 19,338 in Delhi and 1,240 in other states. There were 230 migrant families living in 14 camps in Delhi, and 5,778 families in 16 camps in Jammu.

On February 2, local Kashmiri Pandits released a survey on their population in the state. The survey found 2,865 Pandits residing in the state, compared with 19,900 in 1998.

On August 25, the Jammu and Kashmir government announced a package of approximately 16 billion rupees (\$32 million) for the return and rehabilitation of Kashmiri Pandits to the state.

During the year the government issued passports to several separatist leaders from Jammu and Kashmir.

According to the MHA's 2008-09 annual report, the central government began discussions with the state of Mizoram regarding repatriation of 32,500 Reang IDPs living in six relief camps in Tripura to Mizoram.

According to media sources, tensions in six Reang/Bru camps in Kanchanpur resulted from failure to include more than 7,000 children in the distribution of ration cards. A survey conducted by the Asian Indigenous and Tribal Peoples' Network (AITPN) on internally displaced families at Bru found that more than 94 percent of the camp inmates had documents issued by Mizoram authorities to prove their bona fide residence.

AITPN presented its findings to the Supreme Court, but neither the state nor the central government tried to verify the Brus' status. Despite the Tripura government's recommendation, the central government failed to increase the ration card numbers to include 1,514 children, forcing families to share their food allocation. More than 1,000 Hmar, one of many groups who belong to the Chin-Kuku-Mizo tribe, reportedly were displaced in and around Mizoram.

In 2005 the Supreme Court ordered the MHA, the election commission, and the governments of Mizoram and Tripura to resettle approximately 30,000 displaced Reangs and add them to the electoral rolls. By year's end approximately 1,000 Reangs were resettled in Mizoram.

The Bru National Liberation Front and Mizoram government agreed on a financial package of 278 million rupees (approximately \$6.3 million) and paved the way for the resettlement of Reang IDPs encamped in North Tripura.

The violence in Gujarat in 2002 displaced many Muslims from Gujarati villages and cities. According to June estimates from an NGO that carried out a study for the National Commission for Minorities, approximately 5,000 Muslim families had not been able to return to their original homes; instead, they continued to live in 46 camps in precarious conditions across Gujarat.

More than 87,000 persons lived under poor conditions in IDP camps in Assam as a result of violence in the Northeast.

The government provided assistance to IDPs and allowed them access to NGO and human rights organizations. As in previous years, there were no reports that the government attacked or forcibly resettled IDPs. There were no specific government programs designed to facilitate resettlement or return to countries of origin.

IDP camps that opened in Chhattisgarh for displaced tribal persons caught in fighting between Naxalites and the Salwa Judum in 2006 continued to operate. An October 2008 NHRC report identified 23 government relief camps, with an estimated camp population of 40,000 IDPs, down from 27 camps with as many as 60,000 IDPs in 2006. There were no updated estimates of camp populations available.

The camps lacked adequate shelter, food, health care, education, and security. Civil society groups alleged that men, women, and children from the camps were trafficked for labor, sexual exploitation, and child soldiering. Some sources alleged that both Naxalites and Salwa Judum activists armed children, but there was no confirmed evidence. Police acknowledged that some minors may have been armed unintentionally as special police officers but stated that police dismissed minors upon learning their ages.

NGOs alleged that hundreds of Chhattisgarh IDPs settled in forest reserve areas in Andhra Pradesh were denied basic assistance, including food, water, shelter, medical facilities, and sanitation. Little was known about the population or their living conditions. According to HRW, the Andhra Pradesh forest department attempted to evict displaced persons from Kothooru.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. Due to the absence of clear guidelines, refugees are governed under the Foreigners Act 1946, which defines a foreigner as a person who is not a citizen of India and is thus eligible to be deported. The government has established a system for providing protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. This applied especially to Tibetans and Sri Lankans.

According to the Office of the UN High Commissioner for Refugees (UNHCR), during the year there were 11,321 refugees under UNHCR mandate in the country. Since 1960 the government has hosted approximately 110,000 de facto refugees from Tibet. Tibetan leaders in the country stated that the government treated them extremely well. The MHA has spent 180.7 million rupees (approximately \$4.2 million) on Tibetan refugee resettlement.

According to the World Refugee Survey, 456,000 refugees were in the country, including the Dalai Lama, spiritual leader of Tibetan Buddhists. The survey noted that there were 100,000 refugees from Myanmar, 30,000 from Afghanistan, 25,000 from Bhutan, and 25,000 from Nepal residing in the country. According to the MHA's 2008-09 annual report, citing information of the Bureau of His Holiness the Dalai Lama, the population of Tibetan refugees in the country as of February 2008 was 110,095.

The government generally denied NGOs, international humanitarian organizations, and the UNHCR direct access to refugee and IDP camps, particularly in Mizoram, although foreign government access was granted. Although the UNHCR had no formal status, the government permitted its staff access to refugees in urban centers and allowed it to maintain a local office in Tamil Nadu. The government did not formally recognize UNHCR designations of refugee status, although it provided "residential permits" to many Afghans and Burmese. An estimated 1,900 Burmese refugees have lived in New Delhi since 1982. The government considered Tibetans and Sri Lankans in settlements and refugee camps to be refugees and provided assistance, but because it regarded most other groups, especially Bangladeshis, as economic migrants, it did not provide aid to them. In recent years a number of court rulings extended protection to refugees the government formerly considered economic migrants.

As of October approximately 73,000 Sri Lankan refugees from 19,904 families lived in 117 refugee camps throughout Tamil Nadu. There were 26,729 Sri Lankan refugees living outside the camps after completing a registration process with the nearest police station. The central government and the state of Tamil Nadu jointly provided monthly cash payments and food subsidies to the refugees. The refugees were free to move in and out of the camps but had to return to camps for periodic roll calls. The refugees were subject to surveillance by police. Refugee children generally enrolled in local schools.

According to NGOs, conditions in the Sri Lankan refugee camps in Tamil Nadu were generally acceptable, although much of the housing, as well as water and sanitation facilities, were of poor quality. There were some reports of gender-based violence. The UNHCR continued to meet outside the camps with Tamil refugees considering voluntary repatriation. The NGO Organization for Eelam Refugee Rehabilitation had regular access to the camps, as did some other international NGOs.

There were approximately 65,000 persons who were not formally recognized as refugees living in the country, according to the World Refugee Survey. In addition, Chakmas and approximately 200,000 Santhals, both from Bangladesh, resided in Arunachal Pradesh, Mizoram, and Assam. Afghans, Iraqis, and Iranians without valid national passports were also present in the country. In most cases the government chose not to deport them, issued them renewable residence permits, or ignored their presence. For financial and other reasons, many refugees were unable or unwilling to obtain or renew national passports and could not regularize their status.

According to the U.S. Committee for Refugees and Immigrants (USCRI), the "Citizenship Amendment Act of 2003 defines all noncitizens who entered without visas as illegal migrants, with no exception for refugees or asylum seekers, [but the government] does grant some Tibetans and Sri Lankans asylum under executive policies, based on strategic, political, and humanitarian grounds. India does not formally recognize UNHCR's grants of refugee status under its mandate but typically does not refile them either and gives residence permits to some Afghans and Myanmarese mandate refugees."

The UNHCR provided refugee status and assistance to approximately 1,800 Chins from Burma living in New Delhi. The UNHCR did not have access to the larger population of ethnic Chins living in the northeastern states. According to USCRI's World Refugee Survey, an estimated 100,000 Chins lived and worked illegally in Mizoram. Mizoram human rights groups estimated that approximately 31,000 Reangs, a tribal group from Mizoram displaced by sectarian conflict, remained in six camps in North Tripura. Conditions in these camps were poor, and the Tripura government asked the central government to allot funds for their care.

USCRI also reported a number of cases of abuse of refugees and arbitrary detentions. USCRI noted that "even recognized refugees cannot work legally, although Nepalese and Bhutanese nationals could do so under friendship treaties. [but] the Government rarely punishes employers formally for hiring refugees illegally. Many refugees work in the informal sector or in highly visible occupations such as street vendors, where they are subject to police extortion, nonpayment, and exploitation."

The UNHCR reported that the government collaborated with it to protect and assist approximately 11,000 urban refugees, most of them from Afghanistan and Burma. The UNHCR also reported that the government was developing a national legal framework to ensure protection for refugees and had provided more resettle-

ment opportunities for long-staying refugees. The UNHCR and the government continued to pursue durable solutions for all refugee groups, focusing on resettlement and negotiation of an agreement that provided for local integration through naturalization for Hindu and Sikh refugees from Afghanistan.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The country has a longstanding democratic parliamentary system of government, with representatives elected in multiparty elections. The parliament sits for five years unless it is dissolved earlier for new elections, except under constitutionally defined emergency situations. The country held a five-phase national election in April and May that included 714 million eligible voters. National and local security forces helped to ensure a relatively smooth election, although 65 persons were killed in voting-related violence. The Congress-led United Progress Alliance government, headed by Prime Minister Manmohan Singh, returned to power for a second term in May.

Citizens elected state governments and local municipal or village council governments at regular intervals. During the year free and fair assembly elections were held in Andhra Pradesh, Orissa, Sikkim, Arunachal Pradesh, Maharashtra, and Haryana. During the elections seven civilians were killed in election-related violence.

Political parties could operate without restriction or outside interference. On May 7 in West Bengal, there were reports of political violence. According to media reports, 11 persons were killed as a result of postpolling violence. Communist Party of India-Marxist activists fought with Trinamool Congress supporters using bombs, firearms, and weapons in several Bengali districts. Hundreds of houses were set ablaze or otherwise damaged in Howrah, Burdwan, East Midnapore, and Murshidabad districts. Sporadic politically motivated violence continued through August.

The May general elections were largely peaceful in Jammu and Kashmir. Average turnout of the five-phase elections in the state reached a historic high of 40 percent. There was no significant violence in spite of threats by militant groups and boycott calls by separatists.

On April 24, Abdul Sattar Ganaie, bloc president of the National Conference party, was shot and killed by militants in Baramulla District. Ganaie was the only political leader killed by militants during the election process.

On April 29, the government imposed an undeclared curfew in the Kashmir valley to prevent antipoll protests, and 21 persons were injured when police used tear gas against curfew violators. Many separatist leaders were put under house arrest to prevent their participation.

The elections brought 78 female members to the Lok Sabha (lower house), which can have up to 552 members. Women held many high-level political offices, including President Pratibha Patil, Lok Sabha Speaker Meira Kumar, and Uttar Pradesh Chief Minister Mayawati. Women remained active in politics throughout the country at all levels.

On August 29, the central government approved a proposed amendment to the constitution to increase reservations in elected village councils (panchayats) from 33 percent to 50 percent for women. Parliament approved the amendment, and implementation across states was ongoing at year's end.

The constitution stipulates that to protect historically marginalized groups and to ensure representation in the lower house of parliament, each state must reserve seats for scheduled castes and scheduled tribes in proportion to their population in the state. Only candidates belonging to these groups can contest elections in reserved constituencies. In the 2009 elections, 84 seats for candidates from scheduled castes and 47 seats for scheduled tribes members were reserved, representing 24 percent of the total seats in parliament's lower house.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; in practice officials frequently engaged in corrupt practices with impunity. Both the Election Commission and the Supreme Court upheld mandatory disclosures of criminal and financial records for election candidates. Election campaigns for the parliament and state legislatures often were funded with unreported money, and the government failed to control the practice.

The law does not prevent candidates who are facing criminal charges from running for public office unless they have been convicted. In its 2009 report, the Association for Democratic Reforms (ADR) estimated that one-quarter to one-third of the country's directly elected members of parliament (MPs) faced criminal charges ranging from trespass to murder. The year's election brought a 20 percent increase in the number of MPs who had pending criminal cases as compared with the 2004 elections; the ADR noted that five MPs with serious charges had been voted out of office.

Transparency International (TI) and the India and Center for Media Studies, found that nearly one million households below the poverty line had to pay bribes worth 68.8 million rupees (approximately \$1.5 million) to obtain public services typically provided free of cost, such as police protection, school admission, water supply, and government assistance. Half of the bribes were paid for the benefit of registering for government assistance. In February 2008 a survey the Institute of Development and Communication conducted for the Punjab government's Department of Planning found that 76.5 percent of respondents reported paying bribes to municipal officials to get work done. Furthermore, 94.1 percent of respondents stated that officials had asked them for money before addressing problems with basic amenities such as water, sewage, streetlights, and roads. TI India and the Center for Media Studies did not release updated findings during the year.

According to a survey released in January by Trace International, a not-for-profit association that helps companies to combat bribery, 91 percent of bribe demands came from government officials. Police officers accounted for 30 percent of the bribe demands. Express India reported that the survey also indicated that "of the total reported bribe demands at the national level, 13 percent were from the national office of Customs and 9 percent each were from the national offices of Taxation and Water." On February 26, the New Delhi city court sentenced former minister of state for communications Sukh Ram to three years' imprisonment for illegally amassing properties during his government tenure from 1991 to 1996. The former official was also ordered to forfeit 43.5 million rupees (approximately \$926,000) and to pay a fine of 200,000 rupees (\$4,260) fine.

On September 1, a Delhi court sentenced a suspended Delhi municipality engineer to four years' imprisonment for taking a bribe of 25,000 rupees (\$530) for allowing construction of a building in an industrial area in 2003.

In 2006 the government launched a national antibribery campaign to raise public awareness of the right to information. The law mandates stringent penalties for failure to provide information or for restricting the flow of information, and requires agencies to be more flexible in releasing sensitive information. Although the government took extended periods of time to reply to information requests, local community members as well as noncitizens could access the Right to Information Act (RTI) online portal to get information on personal documentation, city plans, and other public records. The government charged 10 rupees (approximately \$0.21) as a fee at the time of the request. Many state governments, including that of Jammu and Kashmir, have right-to-information laws.

The MHA's 2008-09 annual report stated that 20,920 requests were processed under the central RTI in 2007-06, an increase from the 8,311 requests addressed in the previous year. If a request is denied, one can appeal to the Central Information Commission and then to the high court. On August 4, the government announced that a study of the RTI Act found that inadequate planning by public authorities was hindering the supply of information and that there was less awareness in rural areas about the act. The study recommended measures for improving awareness on the right to information, simplifying methods of filing requests, and enhancing accountability.

As of February 26, the Central Information Commission had penalized public information officers in 211 cases and recommended disciplinary action in 21 cases for not following the RTI Act in response to public requests.

Officials arrested several senior government bureaucrats in Tamil Nadu on charges of official corruption. On April 25, the CBI detained regional passport officer Sumathi Ravichandran and her husband, charging them with accepting bribes. Two travel agents also were implicated in the case for acting as conduits for bribes. The CBI raided the office and homes of former Chennai Port Trust chairman K. Suresh and deputy conservator M.K. Sinha on August 4 and filed cases under the Prevention of Corruption Act, claiming they abused their official position for monetary gain. The cases were pending at year's end.

On July 20, the CBI arrested R. Sekar, protector of emigrants (Chennai), and two other agents on corruption charges, seizing 10 million rupees (\$208,000).

On August 6, the Tamil Nadu Directorate for Vigilance and Anti-corruption (DVAC) arrested M. Ezhilarasi, the director of Medical and Rural Health Services

(Employees State Insurance). According to the media, the DVAC had information that drug company representatives planned to give 853,000 rupees (\$17,700) to Ezhilarasi in exchange for a 150 million rupee (\$3.1 million) drug supply contract.

On August 7, DVAC officials raided the homes and offices of the vice chancellor of Coimbatore Anna University, R. Radhakrishnan. According to news reports, the raids stemmed from a petition in the Madras High Court alleging that the vice chancellor amassed wealth far beyond his legitimate sources of income. Charges against Radhakrishnan included accepting bribes to grant affiliation between the university and more than 100 private colleges and for awarding university contracts.

On November 30, police arrested former Jharkhand chief minister Madhu Koda for allegedly possessing assets disproportionate to his income and for alleged money laundering of 50 million rupees (approximately \$1.1 million). Income tax authorities raided dozens of offices and homes nationwide investigating the allegations and ultimately filed corruption cases against Koda and three former state ministers.

The CBI credited its successes to an innovative text-messaging campaign launched in 2008 encouraging the public to report government employees who sought bribes. The CBI sent messages to five million cell phone users, and the public responded with approximately 200 calls and 40 e-mails each day from Tamil Nadu and Pondicherry.

On August 28, the country's chief justice announced that all Supreme Court judges would disclose their assets per a 1997 resolution and make the information available online to the public. Previously, the Supreme Court had argued it was not a public authority and therefore was exempt from the Right to Information Act. On November 3, the chief justice and 20 judges of the Supreme Court made their assets public on the Supreme Court Web site.

On September 17, the Central Vigilance Committee posted on its Web site the names of 123 government officials who were under investigation for alleged corruption.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; in a few circumstances, groups faced restrictions. Government officials assisted some NGO inquiries and actions.

In 2006 the MHA barred 8,673 organizations from seeking foreign funds under the FCRA for failing to provide proper paperwork. NGOs called the FCRA restrictive and claimed the government failed to notify organizations when the requisite paperwork was due. Until December 2007, funds under the FCRA were granted to 475 organizations. During 2008-09, under the FCRA, 1,611 organizations were granted registration and 346 organizations were granted prior permission to receive foreign funds. In July the MHA informed the parliament that 6,653 NGOs received foreign funds of 100,000 rupees (\$20,400) during 2007-08. Forty-one NGOs were prohibited from receiving foreign contribution, 34 NGOs were placed in the prior permission category, and accounts of 11 NGOs were frozen. Thirteen cases were referred to the CBI for FCRA violations.

The main domestic human rights organization was the government-appointed NHRC. Although the NHRC generally acted independently, some human rights groups claimed institutional and legal weaknesses hampered the NHRC. For example, although the NHRC was not required to request and receive approval for visits to state-managed prisons, the NHRC was unable to inquire independently into human rights violations by the armed forces, initiate proceedings for prosecution, or grant interim compensation. NGOs also criticized the NHRC's financial dependence on the government and the failure to investigate abuses more than one year old.

From March 2008 to March 31, the NHRC received 9,090,954 complaints of human rights abuses. The NHRC closed 9,595,258 cases, including those from previous years. The NHRC transferred 5,925 cases to the State Human Rights Commission. It recommended interim relief in 137 cases of custodial deaths, amounting to 19,775,000 rupees (approximately \$396,000). The NHRC did not have the statutory power to investigate allegations and could only request that a state government submit a report, a request that state governments often ignored. Human rights groups claimed the NHRC did not register all complaints, dismissed cases on frivolous grounds, did not adequately protect complainants, and failed to investigate cases thoroughly.

Human rights monitors in Jammu and Kashmir were able to document human rights violations, but they were at times restrained or harassed by security forces,



counterinsurgents, and police. The Jammu and Kashmir State Human Rights Commission has disposed of 3,775 cases of human rights violations since its creation in 1997. The state human rights commission makes recommendations to the state government, including recommendations on victims' compensation payments.

In July the MHA informed parliament that the NHRC received the greatest number of human violation complaints from three states: Uttar Pradesh (55,214 cases), Delhi (5,616 cases), and Gujarat (3,813 cases).

International human rights organizations faced difficulties obtaining visas for investigations, and occasional official harassment and restrictions limited the public distribution of materials. International humanitarian organizations, such as the ICRC, had access to most regions, with the exception of the Northeast and Naxalite-controlled areas.

Despite the recommendation in the 1993 PHRA to create state human rights commissions, only 17 of the 28 states had established them by year's end.

Human rights groups alleged that state human rights commissions were limited by local politics and less likely to offer fair judgments than the NHRC. For example, the Jammu and Kashmir Commission did not have authority to investigate alleged human rights violations committed by members of paramilitary security forces. The Maharashtra State Human Rights Commission, after receiving a court order, was forced to disclose that it had dismissed without any action 27,000 of the 30,000 complaints it received between July 2000 and July 2007. It heard 39 cases and recommended action against police or government officials in only eight cases.

In October 2008 the Punjab State Human Rights Commission stated that most cases it took up concerned atrocities that Punjab police allegedly committed. According to the commission, 6,000 of 10,000 complaints registered through September pertained to police atrocities. There was no update available at year's end.

The country welcomed a wide array of international NGOs that were registered as trusts, societies, or private limited nonprofit companies. Civil society faced few restrictions in most areas of the country.

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

The law prohibits discrimination on the basis of race, gender, religion, place of birth, or social status, and the government worked with varying degrees of success to enforce these provisions.

*Women.*—The law provides for protection from all forms of abuse against women in the home, including physical, sexual, verbal, emotional, or economic abuse. Domestic violence includes actual abuse or threat of abuse. The law recognizes the right of a woman to reside in a shared household with her spouse or partner while the dispute continues, although a woman can be provided with alternative accommodations, at the partner's expense. The law also provides women with the right to police assistance, legal aid, shelter, and access to medical care. The law banned harassment in the form of dowry demands and empowered magistrates to issue protection orders. The law criminalizes spousal rape. Punishment ranged from jail terms as long as one year, a fine of 19,800 rupees (approximately \$450), or both.

For the year the MHA informed parliament it recorded 109,559 cases of crime against women through August. The southern state of Andhra Pradesh recorded the worst record for crimes against women, with 772 cases of rape, 1,039 cases of kidnapping and abduction, 506 cases of dowry deaths, and 7,033 cases of domestic violence. Uttar Pradesh recorded 14,192 cases of violence, including 1,485 cases of dowry deaths, 1,066 cases of rape, and 3,139 cases of kidnapping. Haryana recorded 3,125 incidents, including 164 cases of dowry deaths and 325 cases of rape. Bihar reported that 59 percent of married women were victims of domestic violence and recorded 4,054 cases in total, including 629 rape cases, 612 dowry deaths, and 886 kidnapping and abduction cases. The NCRB noted that underreporting of these types of crimes against women was likely.

The Gujarat Human Rights Commission reported during the year that there were 16,113 crimes against women in the state in 2008. Of these, there were 359 cases of rape, 1,041 of kidnapping, 857 of molestation, 28 dowry deaths, and 6,093 incidents of physical or mental torture.

In 2005 parliament amended the code of criminal procedure to stipulate mandatory DNA tests in all rape cases. The act also requires a judicial inquiry into any death or rape of a woman in police custody and prohibits the arrest of a woman between sunset and sunrise except in "exceptional circumstances." Human rights groups claimed there was no subsequent decrease in the prevalence of custodial abuse or killings. The law sets criminal penalties for rape, including spousal rape, but the government did not enforce the law effectively. In December the Additional Court of Delhi convicted Ajit Singh Katiyar and sentenced him to 14 years of rigorous imprisonment for the gang rape of a Delhi University student in May 2005.

According to the MHA, there were 414 reported incidents of rape in Delhi from January 1 to November.

According to a survey conducted in six states (Andhra Pradesh, Bihar, Jharkhand, Maharashtra, Rajasthan, and Tamil Nadu) published in February by the International Institute of Population Studies and the Population Council of India, domestic violence remained a significant problem. In Maharashtra 27 percent of women interviewed reported physical abuse. In July NGOs alleged that the government of Madhya Pradesh subjected several hundred women in Shahdol district to an intrusive virginity/pregnancy test. The women, who registered in a low-cost mass-marriage program, were required to take a medical test to prove they were eligible for the government-subsidized wedding ceremony. The government denied the allegation that the test was intended to test for virginity.

Domestic violence remained a significant problem. The highest prevalence was in Delhi, according to a study conducted by the NGO Lawyers Collective and the UN Development Fund for Women. A total of 3,534 cases were reported in Delhi, followed by Kerala with 3,287 cases, and Maharashtra with 2,751 cases, between 2006 and October 2008. The NCRB reported 43,224 incidents of torture and cruelty against women in matrimonial homes from 2006 through August 2007. The National Family Health Survey also found that 59 percent of married women in the state of Bihar suffered from domestic violence. No further updates were available at year's end.

Bohra Muslims practiced various forms of female genital mutilation (FGM). The Bohra Muslims, a sect with a following of approximately one million worldwide, is headquartered in Mumbai. There is no national law addressing the practice of FGM.

The law forbids the provision or acceptance of a dowry, but families continued to offer and accept dowries, and dowry disputes remained a serious problem. The law also provides extensive powers to magistrates to issue protection orders to address dowry-related harassment and murder. Deaths associated with the nonpayment of dowries rose in the past several years. The number of dowry deaths in 2007 was 8,093, up from 6,767 in 2005. During 2008 Andhra Pradesh police reported a marginal decrease in dowry deaths, noting 538 that year, compared with 596 in 2007. Tamil Nadu recorded 207 such deaths and Karnataka 259.

Madhya Pradesh, Kerala, Bihar, and several other states had a chief dowry prevention officer, although it was unclear whether these officers were effective. Madhya Pradesh required government employees to produce sworn affidavits by prospective brides, bridegrooms, and fathers of bridegrooms that no dowry was exchanged.

Honor killings continued to be a problem, especially in Punjab and Haryana, where as many as 10 percent of all killings were honor killings. In July 2008 the Association for Advocacy and Legal Initiative, a women's advocacy group, reported that it identified 73 cases of honor killings from Hindi-speaking states in 2007.

For example, according to media reports, on March 23, a 16-year-old girl from Bhojpur was set on fire inside her house. She was admitted to a local hospital, where she later died from her injuries. Two of the four accused men told the police the girl's father asked them "to straighten out his daughter" because she was accepting too many visits from a young man from another tribe.

On July 22, in Haryana, residents of the home village of the wife of Ved Pal Maun attacked him with scythes and farm tools and lynched him for violating caste prohibitions. At year's end no one had been charged in the killing, and the police had not questioned his wife's family, according to media reports.

On October 17, the in-laws of Virender Singh from Haryana killed him for marrying their daughter, who belonged to a different caste. The police arrested four persons, including the girl's father.

On August 17, an additional sessions court in Delhi convicted four of the president's bodyguards for raping a 17-year-old in 2003. Two were sentenced to life imprisonment and fined 9,000 rupees (\$180) each. The other two were given 10 years to life in prison and fined 7,000 rupees (\$140) each.

Although the act of prostitution is not illegal, most activities, such as selling, procuring, and exploiting any person for commercial sex or profiting from the prostitution of another individual, are illegal. Section Eight of the Immoral Trafficking Prevention Act (ITPA), which criminalizes the act of solicitation for prostitution, was occasionally the basis for arresting and punishing women and girls who were victims of trafficking. The country is a significant source, transit point, and destination for trafficked women.

Sexual harassment of women in the workplace included physical and verbal abuse from male supervisors. In 2006 the Supreme Court instructed all state chief secretaries to comply with its mandate that all state departments and institutions with more than 50 employees establish committees to deal with matters of sexual harass-

ment. According to the NCRB, which reports on the entire country, 4,541 cases of sexual harassment were filed in 2006, the latest year for which figures were released. In October 2008 the National Commission for Women reported 153 cases of sexual harassment registered from 2006-08. Sixty cases were registered in Delhi and 77 in Uttar Pradesh.

The government permits health clinics and local health NGOs to operate freely in disseminating information about family planning. There are no restrictions on the right to access contraceptives.

Laws favoring families that have no more than two children remained in place in seven states, but authorities seldom enforced them. The laws provide reservations for government jobs and subsidies to those who have no more than two children and reduced subsidies and access to health care for those who have more than two. National health officials noted that the central government did not have authority to regulate state decisions on population issues.

Maternal health remained poor, with only 34 percent of births attended by skilled help and no follow-up care of mothers and infants. The maternal mortality rate is about 400 per 100,000 births, according to the Federation of Obstetrics and Gynecological Societies of India.

The National AIDS Control Organization (NACO), which formulates and implements programs for the prevention and control of HIV and AIDS, reported that women accounted for about one million of the estimated 2.5 million citizens with HIV/AIDS. Infection rates for women were highest in urban communities, and care was least available in rural areas. There were a number of HIV/AIDS treatment and prevention programs under way across the country, but a 2007 report cosponsored by the United Nations Children's Fund (UNICEF), Horizons, and others indicated that fewer than 50 percent of HIV-positive women had heard of treatment, and NGOs expressed concerns that many affected persons had insufficient access to programs. In its 2006-07 report, NACO noted that traditional gender norms left women especially vulnerable to infection, stating that the government and NGOs had created programs to address the "feminization of the epidemic" and to provide access comparable to that of men.

The law prohibits discrimination in the workplace; in practice employers paid women less than men for the same job, discriminated against women in employment and credit applications, and promoted women less frequently than men.

In March 2008 the All India Muslim Women Personal Law Board released a new marriage law, applicable to both Shias and Sunnis, that makes registration of marriages compulsory and expands the rights of women. For example, the new law prohibits divorce via text message, e-mail, or telephone, and the wife can file for divorce if her husband forces her to have sex with him.

On October 21, villagers branded five Muslim widows in Pattharghatia village, Jharkand, as witches and forced them to eat human excrement. Four persons were arrested, and the victims were under police protection.

Many tribal land systems, notably in Bihar, denied tribal women the right to own land. Shari'a (Islamic law) determines land inheritance for Muslim women. Other laws relating to the ownership of assets and land accorded women little control over land use, retention, or sale. Several exceptions existed, such as in Ladakh, Meghalaya, and Himachal Pradesh, where women traditionally controlled family property and enjoyed full inheritance rights.

Female feticide (selective abortion for gender) was an acute problem in Punjab, Haryana, and Rajasthan. The states of Punjab, Haryana, Gujarat, Uttar Pradesh, Himachal Pradesh, Delhi, and parts of Tamil Nadu reported particularly low female/male ratios. Nationally, there were only 927 girls per 1,000 boys, according to the 2001 census. In 14 districts of Haryana and Punjab, there were fewer than 800 girls per 1,000 boys. The low female/male ratio resulting from female feticide caused families in Punjab and Haryana to traffic women and girls from Bihar and other northeastern states to provide wives or to serve as prostitutes in other regions of the country.

*Children.*—The Registration of Birth and Death Act 1969 establishes state governments' procedures for birth registration. According to the National Commission on Population, approximately 55 percent of national births were registered at year's end, and the registration rate varied substantially across states. Any person born in the country on or after January 26, 1950, but before phases of the act took full effect on July 1, 1987 obtained citizenship by birth. A person born in the country on or after July 1, 1987, obtained citizenship if either parent was a citizen at the time of the child's birth. Those born in the country on or after December 3, 2004, were considered citizens only if both of their parents were citizens or if one parent was a citizen and the other was not an illegal migrant at the time of the child's birth. Persons born outside the country on or after December 10, 1992, were consid-

ered citizens if either parent was a citizen at the time of birth. From December 3, 2004, onward, persons born outside the country were not considered citizens unless their birth was registered at an Indian consulate within one year of the date of birth. In certain circumstances it was possible to register after one year with the permission of the central government.

The National Commission for Protection of Child Rights Act, 2005, mandates that each state create a state commission. By the end of the year, only Delhi, Goa, Karnataka, Maharashtra, and Sikkim had constituted the commissions.

In the November session of parliament, the Ministry of Women and Child Development informed parliamentarians that NCRB figures showed 20,410 crimes against children in 2007.

The constitution provides free education for children from six to 14 years of age, but the government did not enforce this provision. On July 20, the parliament passed the Right to Free and Compulsory Education for all children ages six to 14.

In November UNICEF marked the 20th anniversary of the Convention on the Rights of the Child and acknowledged measures the country had taken to ensure “survival” of children. UNICEF stated that school attendance had increased from 61 percent to 81 percent among girls between the ages of six and 10.

The law provides for protection against various forms of child abuse. In 2007 the NHRC developed guidelines for handling child rape cases and issued recommendations on missing children. The NHRC recommended that state directors general of police should issue standing instructions to protect children and require that every police station have a special squad or missing persons desk to trace missing children. The central government directed district administrations to inspect periodically locations where children often worked. The NHRC recommended that state police headquarters create a system of mandatory reporting of all incidents of missing children to the National Commission for Protection of Child Rights within 24 hours.

The NHRC recommended that enforcement agencies, in partnership with NGOs and social workers, develop a mechanism for counseling and awareness on child abduction and that the National Crime Research Bureau establish a National Tracking System to help in locating and tracing missing children.

Abuse of children in both public and private educational institutions was a problem. Although corporal punishment is banned, schoolteachers often used it. There was no progress in the 2007 case of Brijesh Prajapati, a sixth-grade student in Farukhabad, Uttar Pradesh, who died after a beating from his teacher, Kishan Singh. Authorities suspended Singh and the school principal; the case was pending at year’s end.

On March 8, a fast-track court sentenced six teachers of the Gujarat Patan Government Women’s Teacher Training College to life imprisonment for repeatedly gang-raping a Dalit student. After the matter was reported, several other students came forward complaining of sexual harassment from the male teachers. The state government decided to replace all male teachers with female ones.

On April 17, Shanno, a Class II student of MCD Girls Primary School in New Delhi, died after teachers forced her to stand in the sun for more than one hour the previous day. The municipal commissioner ordered an inquiry and suspended the principal and teacher.

On September 9, a teacher from Chhattisgarh’s Koriya District reportedly forced primary school students to strip, dance, and play field games in a wooded area near the school. The children complained that the teacher slapped those who disobeyed. At year’s end police had not arrested the teacher, who fled the area when angry parents stormed the school.

The government sponsored a toll-free 24-hour helpline for children in distress in 72 cities. A network of NGOs staffed the “Childline 1098 Service” number, accessible by either a child or an adult to request immediate assistance, including medical care, shelter, restoration, rescue, sponsorship, and counseling.

According to the NCRB, in 2008 there were 24,528 crimes committed by juveniles under the penal code and 3,156 under the Special and Local Laws.

In 2006 the central government passed the Prohibition of Child Marriage Act, strengthening the 1929 Child Marriage Restraint Act and declaring existing child marriages null and void. On September 7, Orissa became one of the last states to implement the act.

Although the law sets the legal age of marriage for women as 18 and for men as 21, in practice this law was not enforced. According to a 2005 Health Ministry report, 50 percent of women were married by the age of 15. The report found that 45 percent of women ages 18 to 24 and 32 percent of men ages 18 to 29 had married before the legal age. According to a 2005 report from the Office of the Registrar General of India, an average of 240 girls died every day due to pregnancy-related complications in early-child marriages. The International Center for Research on

Women concluded that those married younger than 18 were twice as likely to experience abuse by their husbands compared with women who married later; they were also three times more likely to report marital rape. The center reported that child brides often showed signs of child sexual abuse and posttraumatic stress. Child marriages limited girls' access to education and increased their health risks, as they had higher mortality rates and exposure to HIV/AIDS than girls married at 18 or older.

According to UNICEF, approximately 1.2 million children were prostituted and enslaved throughout the country. The UNICEF report was based on surveys that identified an approximate total of three million prostitutes in India, 40 percent of whom were minors. In part, this high number of exploited children was attributed to the country's status as a source, transit, and destination country for human trafficking.

Sex determination tests are illegal under the 1994 Prenatal Diagnostic Techniques Act (PNDT). Nevertheless, credible sources stated the problem was widespread and calculated that feticide was a \$116 million industry. Officials claimed the practice was prominent among educated and urban sections of society.

On May 14, Mitu Khurana became the first woman to file a complaint under the PNDT Act, claiming her in-laws had forcibly determined the sex of her unborn twins in 2005.

In June a Gujarat woman filed a complaint against her in-laws, claiming they had forced her to abort five female fetuses in nine years. Police arrested the husband and the in-laws, who at year's end were free on bail pending investigation of the case.

According to the Ministry of Health and Family Welfare, 89 cases of violation of the PNDT were reported during the year. In November the ministry informed parliament that there were 603 cases pending for violation of the PNDT law.

According to the NCRB, authorities registered a total of 73 cases under the PNDT Act in 2008, of which 24 were from Punjab. Authorities arrested 44 persons, charged 37, and convicted 10. Punjab had recorded 294 cases of female feticide since 2006.

There was no update in the 2007 arrest by the Haryana Health Department of unlicensed doctor A.K. Singh for feticide based on gender. Haryana registered 35 cases against doctors illegally conducting sex determination tests in the past two years.

Efforts to combat feticide included a program by the Health and Family Welfare Ministry to target and apprehend those who perform or abet female feticide. The central government also launched a "Save the Girl Child" campaign. The New Delhi municipal government sponsored the Ladli plan, which provided each registered girl child with a gift deposit of 5,000 rupees (approximately \$114) at time of admission to class I, VI, IX, X, and XII. The money accumulates interest until the child reaches the age of 18.

*Trafficking in Persons.*—The country is a source, destination, and transit point for men, women, and children trafficked for the purposes of forced labor and commercial sexual exploitation. Those from the most disadvantaged social economic strata were particularly vulnerable to trafficking. Women and girls were trafficked within the country for the purposes of commercial sexual exploitation and forced marriage. Children also were subjected to forced labor as factory workers, domestic servants, beggars, and agricultural workers. In recent years sex trafficking to medium-sized cities and satellite towns of large cities increased.

The country also was a destination for women and girls from Nepal and Bangladesh trafficked for the purpose of commercial sexual exploitation. In addition, there were victims of labor trafficking among the thousands of citizens who migrated to the Middle East, Europe, and the United States for work as domestic servants and low-skilled laborers.

The country prohibits some forms of trafficking for commercial sexual exploitation through the ITPA. Prescribed penalties under the ITPA range from seven years' to life imprisonment. To arrest traffickers, authorities also used sections 366(A) and 372 of the penal code, which prohibit kidnapping and selling minors into prostitution. Penalties prescribed under these provisions are a maximum of 10 years' imprisonment and a fine. In general enforcement of these laws was weak, and convictions of traffickers remained infrequent.

Despite significant efforts to combat trafficking, the country faced several challenges. The constitution gives states primary responsibility for law enforcement, state-level authorities were limited in their abilities to confront interstate and transnational trafficking, corruption among law enforcement officials and overburdened courts impeded effective prosecutions, and widespread poverty continued to provide a source of vulnerable persons.

The Ministry of Women and Child Development remained the central government's coordinator of antitrafficking policies and programs, although its ability to

enhance interagency coordination and accelerate antitrafficking efforts across the bureaucracy remained weak. The government continued information and education campaigns against trafficking in persons and child labor. In January the central government approved a nationwide plan to merge educational and poverty alleviation programs to combat child labor.

Government authorities continued to rescue victims of trafficking for commercial sexual exploitation and forced child labor and to sensitize police about human trafficking. Several state governments (Andhra Pradesh, Bihar, Maharashtra, Goa, and West Bengal) made significant efforts in prosecution, protection, and prevention, largely in the area of trafficking for commercial sexual exploitation.

The MHA renewed its efforts to combat human trafficking. On September 5, it issued an advisory to states stressing the importance of tackling this issue. MHA Minister P. Chidambaram launched a human trafficking book at a large public event and labeled human trafficking “a crime against humanity.” The MHA also expanded its Anti-Human Trafficking Cell to better coordinate nationwide efforts.

The central government continued to improve coordination among the many bureaucratic agencies that play a role in antitrafficking. The central government earmarked 4 trillion rupees (approximately \$440 million) to establish a computerized tracking and network system for serious crimes such as trafficking and to connect all of the country’s 14,000 police stations. The central government allocated 840 million rupees (\$18 million) to create 297 antitrafficking units across the nation to train and sensitize law enforcement officials. According to NGOs, state-level officials who received such training in the past increasingly recognized women in prostitution as potential trafficking victims and did not arrest them for solicitation.

The central government and state governments continued to combat sex trafficking of women and children. In Andhra Pradesh, Bihar, Maharashtra, Goa, and West Bengal, government officials registered hundreds of sex trafficking cases, helped to rescue more than 1,000 victims, and arrested more than 1,000 traffickers. Authorities undertook measures to reduce demand for commercial sex acts, such as the arrests of 856 customers of prostitution in Andhra Pradesh, Maharashtra, Bihar, Goa, and West Bengal. Some of the country’s diplomatic missions in destination countries, especially those in the Middle East, provided significant services, including temporary shelters, to nationals who were trafficked.

In October 2007 the Jammu and Kashmir High Court criticized the CBI’s “lax and deficient” handling of the 2006 arrest of the former state minister for tourism in Jammu and Kashmir, Pirzada Mohammed Sayeed, and his wife for allegedly trafficking and blackmailing approximately 40 local girls into prostitution. In May 2008 the Jammu and Kashmir state government asked the high court to reconsider the case. The CBI and the High Court Bar Association disagreed, and the case was pending at year’s end.

The Department of State’s annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The constitution does not explicitly mention disability as a prohibited ground for discrimination. The Persons with Disabilities Act (PDA) provides equal rights for persons with disabilities, but a clause that makes implementation of programs dependent on the “economic capacity” of the government significantly weakens the law.

Widespread discrimination occurred against persons with physical and mental disabilities in employment, education, and access to health care. There was limited accessibility for persons with disabilities to public buildings and transport. The law did not require spaces and provisions for wheelchairs.

According to a 2007 World Bank report, the country had approximately “40 to 80 million persons with disability. But low literacy, few jobs, and widespread social stigma resulted in the social exclusion of persons with disabilities. Children with disabilities were less likely to be in school, such adults were less likely to be employed, and families with a disabled member were often worse off than average.”

The PDA requires that 3 percent of public sector jobs be reserved for persons with physical, hearing, or visual disabilities. Although only 0.44 percent of public sector employees were persons with disabilities, the government allocated funds to NGO partners to develop programming that would increase the number of job reservations for such persons. Private sector employment of persons with disabilities remained low despite PDA benefits to private companies where persons with disabilities constituted more than 5 percent of the workforce. In July 2008 the central government approved an incentive program for private sector employers that covered positions with a monthly wage of 25,000 rupees (approximately \$568).

The PDA created a Central Coordination Committee, which reported that approximately 100,000 children with special needs attended approximately 2,500 schools that provided integrated and inclusive education or nonformal education. The

MHRD reported in 2006 that children with mental disabilities had the lowest rate of school attendance of any other tracked group of children at 53 percent, followed by those with speech disabilities at 57 percent, and those with hearing disabilities at 68 percent.

The law stipulates that 3 percent of all educational places be reserved for persons with disabilities, but the Ministry of Social Justice and Empowerment (MSJE) stated that students with disabilities made up only an estimated 1 percent of all students. The MSJE offered 500 scholarships to persons with disabilities to pursue higher education. University enrollment of students with disabilities remained low for reasons including inaccessible infrastructure, limited availability of resource materials, nonimplementation of the 3 percent reservation, and harassment.

On March 4, the Score Foundation launched [www.eyeway.org](http://www.eyeway.org), the country's first Internet knowledge portal for persons with visual impairments, which provided information on eye conditions, education facilities, services, and job markets.

On May 28, the Delhi High Court noted that 650 New Delhi government schools and 1,800 Municipal Corporation of Delhi schools did not hire any dedicated teachers for the 10,000 students with disabilities. The Delhi High Court directed the state government to develop an action plan to hire teachers and build facilities for students with disabilities.

On September 8, the Central Information Commission launched a Web site accessible to persons with disabilities for lodging complaints and appeals. Users with impaired vision could hear instructions and details on the portal.

In July 2008 the central government pledged to fund programs to provide toilets accessible for persons with disabilities, sloped ramps, lifts with audio systems and Braille buttons, computer rooms usable for persons with disabilities, and one room in each hostel for persons with disabilities in the country's universities.

In 2008 Delhi University organized a special orientation program for students with disabilities, and in July it launched its first special cost-free bus service for students with physical disabilities.

In November the MSJE informed parliament that 483,834 persons with disabilities received benefits from government programs in 2008-09.

The disability division of the MSJE delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the government to provide rehabilitation centers to more than 400 districts, but services were concentrated in urban areas. The impact of government programs was limited due to the concentration of funding provided to a few organizations.

*National/Racial/Ethnic Minorities.*—The law provides that the practice of untouchability, which discriminated against Dalits and members of other scheduled castes (SCs), is a punishable offense. This type of discrimination remained ubiquitous, however.

The law gives the president the authority to identify historically disadvantaged castes, Dalits, and tribal persons (members of indigenous groups historically outside the caste system) for special quotas and benefits. These groups were entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. According to the 2001 census, SCs, including Dalits, made up 16 percent (168.6 million) of the population, and STs were 8 percent (84.3 million). In 2006 parliament passed a bill to reserve 27 percent of seats at educational institutions for SCs and members of disadvantaged social classes.

Although the law protects Dalits, in practice they faced significant discrimination in access to services such as health care and education, attending temples, and marriage. Many Dalits were malnourished. Most bonded laborers were Dalits. Dalits who asserted their rights were often attacked, especially in rural areas. As agricultural laborers for higher-caste landowners, Dalits often worked without remuneration. Crimes committed by upper-caste Hindus against Dalits often went unpunished, either because the authorities failed to prosecute or because victims did not report the crimes for fear of retaliation.

Reports from the UN's Committee on the Elimination of Racial Discrimination described systematic abuse of Dalits, including extrajudicial killings and sexual violence against Dalit women. For example, on January 9, upper-caste attackers beat a Dalit man, injuring his eyes, because of his relationship with their relative. Police arrested and charged six persons for the assault.

A June study conducted by the Dalit Arthik Adhikar Andolan, an organization committed to the elimination of discrimination based on caste, with support from UNICEF reflected that Dalit children often dropped out of school due to discrimination. The study included 41 primary schools, 36 middle schools, and 17 secondary schools in Uttar Pradesh, Rajasthan, and Maharashtra. The study stated that physical access to the schools was the biggest challenge faced by Dalit children because

the schools were located in areas occupied by members of dominant castes. Some school officials did not allow Dalit children to attend morning prayers, and teachers asked Dalit children to sit at the back of the class. Some school officials also forced Dalit children to clean school toilets but did not allow the children to use those facilities.

The MHA's 2008-09 annual report noted 30,031 cases of crime against SC in 2007, compared with 27,070 in 2006. In July the MHA reported to the parliament that 56,245 persons were arrested in 2007 for crimes against SC. On April 30, the MHA reported that 13,449 persons had been convicted of crimes against persons belonging to the SC and ST, according to NCRB records.

In June 2008 a Dalit girl alleged that she was raped and tortured for more than a year in Jatapar village in Gujarat after her disappearance in 2006. Her alleged abductors released her in June 2008. No arrests had been made in the case by year's end. Also in June 2008, a group of upper-caste men stripped and beat a Dalit woman and her daughter in Ajmer, Rajasthan. Police registered a case against the accused, but they remained at large at year's end.

On February 3, Uttar Pradesh police beat a six-year-old Dalit girl for allegedly stealing 280 rupees (approximately \$5.60). The incident, captured on video, received nationwide attention. Authorities fired the senior subinspector for abusing the child and suspended the station house officer for not intervening on her behalf.

On October 28, Dalits from Chettipulam village, Tamil Nadu, entered the Kamakshi Amman Sametha Ekambareshwarar temple for the first time.

In October, 37 Dalit families in a village in Virudhunagar, Tamil Nadu, questioned their exclusion from the state government's Kalaignar medical insurance scheme for the poor. Some higher caste individuals beat members of the families, and the 37 families were evicted from the village. Police, instead of helping, issued First Incident Reports against the Dalits.

In December six persons were sentenced to life imprisonment for the 1979 killing of eight Dalits in Lohari village, Uttar Pradesh.

According to the MSJE, there were 24,971 cases of atrocities against Scheduled Castes and Tribes in 2008.

According to credible NGOs, Dalits and other individuals considered lower caste were often accused of witchcraft. In June residents of a Jharkhand village accused Ghuchara Pahan, his son Kisun, and daughter-in-law Mukta of practicing witchcraft and then beat them to death.

*Indigenous People.*—The law provides for safeguarding tribal rights in most of the northeastern states, and authorities generally tried to follow the regulations. The regulations prohibit any nontribal person, including citizens from other states, from crossing an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from protected areas without prior authorization. Tribal authorities must approve the sale of land to nontribal persons. According to the Indian Confederation of Indigenous and Tribal Peoples, 80 percent of the tribal population lived below the poverty level, and more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation. Land encroachment on tribal lands continued in almost every state despite limited efforts by the states to combat it.

Businesses and illegal undocumented Bangladeshi immigrants encroached on tribal lands in almost every eastern state. Numerous tribal movements demanded the protection of tribal land and property rights. The government created tribal-majority states in 2000 from the Jharkhand area of Bihar and the Chhattisgarh region of Madhya Pradesh, and authorities provided local autonomy to some tribes in the northeast.

In May 2008 police and members of the Gujjar tribe in the state of Rajasthan killed 41 persons in clashes after the Gujjars demanded inclusion in affirmative action quotas and the List of Scheduled Tribes. In 2007, 26 persons were killed in similar clashes. A six-member team from the NHRC visited the state to investigate. In July 2008 the Rajasthan Assembly passed the Reservation Bill for the Gujjar tribe. The Gujjars were expected to get a 5 percent reservation in the category of Special Backward Classes. On July 27, the Gujjar community started a sit-in involving approximately 4,000 individuals, demanding Scheduled Tribe status for quotas in government jobs.

Since late 2007, thousands of mainly indigenous groups of Scheduled Castes and Tribal protesters in Chengara, Kerala, staged a continuing strike on a private estate demanding land ownership. Discussions with the state government to resolve the situation continued at year's end.

Civil rights organizations working with indigenous persons in Kodagu district of Karnataka accused the state government of actively promoting tourism by infringing on their property rights. The groups alleged that more than 1,600 families had



been evicted since 1972. Although the 2006 Scheduled Tribes Act grants indigenous persons certain rights pertaining to lands from which they were evicted, in practice little changed. The government had not determined by year's end which department should implement the new rules, with the practical effect that none of the evicted families could take up permanent residence in their former homes.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law punishes acts of sodomy and bestiality and was often used to target, harass, and punish lesbian, gay, bisexual, and transgender persons. Gays and lesbians faced discrimination in all areas of society, including family, work, and education. Activists reported that employers often fired gays and lesbians who did not hide their orientations. Gays and lesbians also faced physical attacks, rape, and blackmail. Police committed crimes against gays, lesbians, bisexuals, and transgender persons and used the threat of arrest to coerce victims not to report the incidents.

Voices Against 377, a campaign to overturn the colonial-era law section 377 that outlaws homosexual conduct, continued its efforts during the year.

On July 2, the Delhi High Court overturned some provisions in section 377, thus decriminalizing consensual sexual activities between adults. Section 377 continued to apply in cases involving minors and coercive sex. Within one week, three groups petitioned the Supreme Court, challenging the ruling. On July 9, several Islamic, Christian, and Jain leaders issued a joint statement protesting the ruling. On September 16, the Delhi Commission for Protection of Child Rights also questioned the ruling, stating that the judgment would encourage sexual exploitation of children.

On September 17, the cabinet decided not to issue a statement on the propriety of the Delhi High Court judgment, allowing the Supreme Court to make a final decision. The Supreme Court's hearing date for the case was twice postponed and rescheduled to begin December 9. There were no updates at year's end.

On July 14, the MHA stated that the population census required respondents to identify themselves as male or female. On November 13, the Election Commission of India issued a statement allowing eunuchs and transsexuals to indicate their sex as "other" in the electoral rolls.

Lesbian, gay, bisexual, and transsexual groups were active throughout the country, sponsoring events and activities including rallies, gay pride marches, film series, and speeches. Nonetheless, societal discrimination continued on the basis of sexual orientation and identity throughout the country.

*Other Societal Violence or Discrimination.*—According to NACO, the government agency responsible for monitoring HIV/AIDS, there were approximately 2.3 million persons with HIV/AIDS in the country, and according to the International Labor Organization, as many as 70 percent of persons in the country with HIV/AIDS faced discrimination. HRW reported that many doctors refused to treat HIV-positive children and that some schools expelled or segregated children because they or their parents were HIV-positive. Many orphanages and other residential institutions rejected HIV-positive children or denied them housing.

NACO, with support from the Joint United Nations Program on HIV/AIDS and the World Health Organization, produced revised AIDS estimates showing that as of December, approximately 2.31 million persons were living with the virus and that HIV prevalence among adults was 0.36 percent. In June in Rajkot, Gujarat, two government health functionaries put a label "HIV positive" on a female patient's forehead and paraded her through different wards in a government hospital. The two were found guilty, fined, and suspended from duty for several days.

In July the government of Maharashtra removed 10 HIV-positive children from a Latur district government school after the community refused to send 150 non-positive children to the same school.

In August 2008 Kerala became the first state to reserve government jobs for HIV-positive candidates.

In August 2008 the state government launched an initiative to provide insurance to persons with HIV/AIDS in Karnataka. The state estimated that 250,000 residents were infected with HIV/AIDS, but only 22,000 were registered with the main HIV/AIDS NGO, the Karnataka Network for Positive People. Of those, 1,028 had opted for the insurance as of October 31. The health insurance would provide 30,000 rupees (approximately \$650) in coverage, including 15,000 rupees (approximately \$325) for hospitalization at the onset of AIDS and 15,000 rupees for further treatment.

In August school officials dismissed an eight-year-old HIV-positive boy from primary government school in Allahabad, Uttar Pradesh.

In September the central government informed the Supreme Court that HIV-positive persons traveling by train would be allowed a 75 percent fare discount.

*Section 7. Worker Rights*

The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and in practice the government generally respected this right. Although the country's active work force comprised more than 400 million persons, only 30 million were employed in the formal sector, with the rest as agricultural workers and, to a lesser extent, urban nonindustrial laborers. Some trade unions represented agricultural workers and informal sector workers, but most of the country's estimated 13 to 15 million union members were in the formal sector. An estimated 80 percent of unionized workers were members of unions affiliated with one of five major trade federations.

In practice legal protections of worker rights were effective only for the organized industrial sector, in which authorities generally prosecuted and punished persons responsible for intimidation or suppression of legitimate trade union activities. Unaffiliated unions generally were not able to secure the protections and rights the law provides. The 1926 Trade Union Act prohibits discrimination against union members and organizers, and employers were penalized if they discriminated against employees engaged in union activities.

Trade unions have a limited right to strike, and workers exercised this right. The Essential Services Maintenance Act allows the government to ban strikes in government-owned enterprises and requires arbitration in specified essential industries; the act is subject to varying interpretations from state to state. State and local authorities occasionally used their power to declare strikes illegal and to force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the government protected this right. The government protects collective bargaining under the law, but public servants have limited organizing and collective bargaining rights. When parties cannot agree on equitable wages, the government may establish boards of union, management, and government representatives to make a determination. Specialized labor courts adjudicate labor disputes, but there were long delays and a backlog of unresolved cases.

The law provides workers in export processing zones (EPZs) the right to join trade unions and bargain collectively, although EPZ workers often did not exercise their full labor rights. The Trade Union Act designates the EPZs as "public utilities" and requires a 45-day strike notice.

Entry into the EPZs ordinarily was limited to employees, and entry restrictions applied to union organizers. Unions have not vigorously pursued efforts to organize private sector employees since EPZs were established. Most EPZ workers were women. The International Trade Union Confederation reported that overtime was compulsory in the EPZs, workers often were employed on temporary contracts with fictitious contractors rather than directly by the company, and workers feared that complaints about substandard working conditions would result in their dismissal.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or bonded labor, but such practices remained widespread. Offenders may be sentenced up to three years in prison, but successful prosecutions were rare. Enforcement and compensation for victims were the responsibility of state and local governments and varied in effectiveness due to inadequate resources and societal acceptance of bonded or forced labor. When inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel sometimes resulted in acquittals simply due to inadequate prosecution, which resulted from lack of preparation time and access to evidence. The Institute for Socio-Economic Development research found that in Bihar and Uttar Pradesh, the main form of bonded labor involved agricultural workers. According to NGOs, nonagricultural sectors that had a high incidence of bonded labor were stone quarries, brick kilns, making beedi (hand-rolled cigarettes), and carpet weaving.

According to the Ministry of Labor and Employment (MOLE), during the period April 2008 to March 2009, officials rescued and rehabilitated 543 bonded laborers from the states of Bihar, Uttar Pradesh, and West Bengal.

Members of Scheduled Castes and Tribes lived and worked under traditional arrangements of servitude in many areas of the country. In Arunachal Pradesh, the Nishi tribe traditionally subjugated Sulungs or Puroiks as customary slaves. Local customs and landlessness made eradication of slavery difficult.

The MOLE partnered with the NHRC and NGOs to investigate allegations of bonded labor. MOLE statistics showed a large decrease in the number of bonded

labor cases brought before the courts, although the extent to which this reflected a decrease in bonded labor was unclear.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits forced labor, including bonded labor, but NGOs reported bonded labor remained a serious problem.

There is no overall minimum age for child labor, but the law prohibits work by children under 14 in factories, mines, domestic work, roadside eateries, and hazardous industries. In occupations and processes in which child labor is permitted, children may work only for six hours between 8 a.m. and 7 p.m., with one day's rest weekly. Employers who failed to abide by the law were subject to penalties specified in the Child Labor (Prohibition and Abolition) Act.

The penalty for employers of children in hazardous industries is 20,000 rupees (approximately \$430) per child employed. The fines go into a welfare fund for formerly employed children. The law requires the government to find employment for an adult member of the child's family or pay 5,000 rupees (\$108) to the family. NGOs noted that requiring the government to pay the family of a child laborer or find the adult family member a job could be a disincentive to investigating violations.

The law prohibits child labor, but the prohibition was not effectively enforced, and forced child labor remained a serious problem. Estimates of the number of child laborers varied widely. The government's 2004 national survey estimated the number of working children from ages five to 14 at 16.4 million. NGOs claimed the number of child laborers was closer to 55 million.

According to 2001 census figures, 65.3 million (29 percent) of 226 million children between the ages of five and 14 did not receive any formal education. Most, if not all, of the 87 million children not in school worked in the informal sector, often in private homes, with the highest rate (15 percent) in Uttar Pradesh. Child labor continued due to social acceptance of the practice, ineffective state and federal government enforcement of existing laws, and poverty. Many officials claimed they were unable to stop the practice because the children were working with their parents' consent.

Working conditions sometimes amounted to bonded labor. Some NGOs alleged that children were found working in forced or bonded conditions in gemstone cutting, quarrying, assembling garments, weaving carpets, brick kilns, rice production, silk thread production, and textile embroidery. The government and industry leaders, however, challenged many of these claims and noted their joint efforts to address violations of labor law.

In July 6, Rajasthan Labor Watch stated that child labor was pervasive in the state and that there was weak implementation of the Juvenile Justice (Care and Protection of Children) Act of 2000. The National Sample Survey Organization stated that there were 3.4 million children between ages five and 14 engaged in labor in the state.

During its July session, the MOLE informed parliament that states were providing welfare to 507,450 former child laborers. Also in July the MOLE informed parliament that in 2008-09, it had conducted 2,860 inspections to check child labor. It noted 2,277 violations and pursued two prosecutions, but there were no convictions. During 12 months preceding March 31, the MOLE launched 12,244 prosecutions and obtained 566 convictions.

According to UNICEF, private companies in Andhra Pradesh reportedly employed 200,000 children in the hybrid seed industry. Most were girls between the ages of seven and 14 from other parts of the state. The majority were Dalits and members of economically disadvantaged castes and tribal groups forced to work in debt bondage. They were routinely abused, exposed to dangerous pesticides, and denied access to education.

Human rights organizations estimated as many as 300,000 children worked in the carpet industry. The government disputed this claim. The following industries also reportedly used child labor: leather goods, embroidered textiles, sporting goods, brassware, fireworks, footwear, hand-blown glass bangles, handmade locks, hand-dipped matches, hand-quarried stones, hand-spun silk thread, hand-loomed silk cloth, handmade bricks, roadside restaurants, roadside auto repair, illegal mining, rice milling, sorting trash for items to resell or recycle, and beedis. A number of these industries exposed children to hazardous work conditions.

According to UNICEF and others, the number of children involved in the silk spinning industry dropped due to competition from China and concerted action by the state government against employers of child labor. The government of Karnataka, in partnership with UNICEF, monitored child labor and developed programs to enable former child workers to enter the state-sponsored formal education system.

The NHRC stated the enforcement of existing child labor laws was inadequate, in part because the act exempts a child assisting his or her family. Employers in cottage industries often claimed that child laborers were assisting their families.

The country made moderate progress during the year on addressing child labor. The MOLE raised awareness about child labor and coordinated efforts with states through video conferences. The MOLE, through its 250 National Child Labor Projects (NCLP), rehabilitated more than 400,000 children from child labor in part by enrolling the children in NCLP schools.

New Delhi's state government rescued more than 100 children from forced labor during the year. Included in this number was the February rescue of 35 children found enslaved in four small factories making leather products under hazardous and forced conditions without pay. In Jharkhand, police and state officials, in collaboration with an NGO, raided 120 establishments and rescued 208 children from forced or bonded labor.

Throughout the year the NGO Bachpan Bachao Andolan rescued more than 200 bonded child laborers in Delhi. The NGO worked in collaboration with the Delhi government and police. All the rescued children received release certificates under the Bonded Labor Act, which entitled each child to a rehabilitation package of 20,000 rupees (approximately \$420) and priority access to government housing and education.

*e. Acceptable Conditions of Work.*—State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an eight-hour workday, a 48-hour workweek, and safe working conditions, which include adequate provisions for restrooms, canteens, medical facilities, and ventilation. The law mandates a minimum rest period of 30 minutes after every four hours of work and premium pay for overtime. These standards generally were enforced in the modern industrial sector; they were generally not observed in the informal economy, which included nearly 93 percent of the work force.

Minimum wages varied according to the state and to the sector of industry. Such wages were inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. State governments set a separate minimum wage for agricultural workers but did not enforce it effectively.

Enforcement of safety and health standards was poor, especially in the informal sector. Industrial accidents occurred frequently. Chemical industries had the highest number of accidents. Workers from Scheduled Castes and Tribes often worked as rag pickers, recycling trash under hazardous and generally deplorable conditions. Workers from these groups also cleaned sewers and drains of human excrement without proper equipment and under extremely unsanitary conditions.

Safety conditions were better in the EPZs than in the manufacturing sector outside the EPZs.

The law does not give workers the right to leave workplaces that endanger health and safety without jeopardizing their continued employment. The country's undocumented foreign workers did not receive basic occupational health and safety protections.

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## KAZAKHSTAN

The Republic of Kazakhstan, with a population of approximately 15.6 million, has a parliamentary system dominated by President Nazarbayev's Nur Otan Party. The constitution concentrates power in the presidency, permitting the president to control regional and local governments and to exercise significant influence over the legislature and judiciary. Changes or amendments to the constitution require presidential consent. According to official results, Nur Otan received 88 percent of the vote in the 2007 national elections for the Mazhilis (lower house of parliament), winning every seat in the chamber. Local and international observers noted some improvements in the electoral process in comparison to past national elections but criticized the 2007 elections as falling short of a number of international standards, particularly with respect to the legislative framework and the integrity of the vote counting and tabulation processes. Civilian authorities generally maintained effective control of the security forces.

The following human rights problems were reported: severe limits on citizens' rights to change their government; military hazing that led to deaths; detainee and prisoner torture and other abuse; unhealthy prison conditions; arbitrary arrest and detention; lack of an independent judiciary; restrictions on freedom of speech, the

press, assembly, and association; pervasive corruption, especially in law enforcement and the judicial system; prohibitive political party registration requirements; restrictions on the activities of nongovernmental organizations (NGOs); discrimination and violence against women; trafficking in persons; and societal discrimination.

#### RESPECT FOR HUMAN RIGHTS

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

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

Abuse was common in detention facilities and other institutions.

On August 4, the court of appeals overturned the conviction of Captain Ruslan Shurshenov in connection with an August 2008 incident in which a marine border guard patrol boat fired on a fishing boat on the Caspian Sea, killing two civilians. The court of appeals ruled that there were no elements of crime in Shurshenov's actions. On June 2, a military court sentenced Shurshenov to six years' imprisonment for unlawfully killing a civilian. Border authorities claimed the patrol opened fire as a response to shooting from the boat. The local community and media alleged that there was no need to open fire.

Military hazing led to deaths, suicides, and serious injuries. The government reported 93 incidents of nonlethal military hazing during the year, compared to 115 in 2008. The government did not publish statistics on the number of deaths during the year that were linked to hazing. The number of suicides in the army did not significantly change from the previous year. Authorities reported 16 suicides; there were 15 in 2008.

On May 8, the Almaty military court convicted two soldiers from the Zhambyl Gvardeisky detachment to five-and-a-half and six years in prison for hazing 19-year-old conscript Yeleusizov and driving him to suicide in December 2008. On July 27, conscript Mukhambetkaliyev of the Aktau military detachment died after a soldier beat him. The Aktau military court sentenced conscript Nesipbayev of the same military unit to six years in prison in connection with Mukhambetkaliyev's death.

*b. Disappearance.*—On April 6, Almaty police announced they detained a suspect in the 2007 disappearance of journalist Olga Zhabaktai-kyzy. In 2007 the Ministry of Internal Affairs (MIA) concluded that her disappearance was unrelated to her ongoing reporting on official corruption, interethnic clashes, and criminal activity in the Almaty region. There was no further information at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; nevertheless, the police and prison officials at times beat and abused detainees, often to obtain confessions. Human rights activists asserted that the legal definition of torture was too broad and did not meet UN standards, and that the penalties for the crime were too lenient. The Prosecutor General's Office (PGO) and the human rights ombudsman acknowledged that some law enforcement officers used torture and other illegal methods of investigation. Human rights and international legal observers noted investigative and prosecutorial practices that overemphasized a defendant's confession of guilt over collecting other types of evidence in building a criminal case against a defendant. Courts generally ignored allegations by defendants that their confessions were obtained by torture or duress.

During his May visit to the country, Manfred Nowak, the UN special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, inspected several prisons and detention facilities. According to his initial assessment, torture was not widespread, although a culture of impunity allowed police to use extreme methods, such as heavy beating and asphyxiation, to obtain confessions. Police rarely investigated complaints of torture. Nowak noted that he visited two detention facilities of the Committee for National Security (KNB) that human rights observers routinely cited as places where abuses were common. Nowak's final report to the UN Human Rights Council was pending at year's end.

On August 14, the Astana city court initiated a criminal trial against Kuat Zhubolayev and Zhasulan Suleymenov for alleged involvement with the extremist religious group Jama'at Al-Farabi. The defendants claimed that they confessed under extreme pressure from the KNB. They and several other citizens of the country were arrested during the year in Russia's Ingushetia Republic. Prosecutors claimed that police found extremist literature and weapons in their apartment.

The Ombudsman's Office reported 1,090 citizen complaints during the year.

On March 24, Karaganda police detained 22-year-old Nikolay Bagautdinov on suspicion of murder. According to media reports, police officers severely beat Bagautdinov and forced him to sign a confession. Police later released him into the custody of his legal guardian, who had doctors document his injuries and publicized

the story through the media. Following a public outcry, five police officers received administrative reprimands for their conduct. Bagautdinov's lawyer succeeded in opening a criminal investigation into the incident, but the investigation stopped when Bagautdinov declined to press charges.

The NGO Human Rights Bureau reported that, on March 20, prison officers severely beat two detainees at the Stepnogorsk pretrial detention facility for allegedly disobeying rules of detention and attempting to start a riot. One of the detainees was hospitalized for skull and rib fractures. The Human Rights Bureau sent a request to the ombudsman and the PGO urging a thorough investigation into the incident, but the PGO found no wrongdoing in the officers' actions.

On April 22, KNB officers detained three fishermen in Atyrau on suspicion of poaching and reportedly beat them while they were in detention. The KNB asserted that the fishermen were released, although the fishermen told the media they escaped from the detention facility. All three were hospitalized for internal injuries, and one fisherman suffered from a concussion. The KNB denied any wrongdoing and opened a criminal investigation against the men for poaching. The case was pending at year's end.

The government reported 167 crimes related to military hazing and abuse of power during the year, compared to 146 in 2008.

The government investigated some allegations of conscript hazing and prosecuted soldiers who engaged in this abuse, forwarding 34 hazing cases to the courts. The Ministry of Defense continued unannounced inspections and required systematic reports from senior officers about hazing in their units.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and facilities did not meet international health standards. Scarcity of medical care continued to be a problem. NGOs reported that about half of the inmate population needed professional treatment, especially for HIV/AIDS, tuberculosis, and other infectious diseases. Abuse occurred in police cells, pretrial detention facilities, and prisons. The government took steps to address systemic patterns that encouraged prisoner abuse, including providing for the continued operation of and increased access for regional penitentiary oversight commissions, training of prison officials, and seminars for MIA police. By year's end authorities had prosecuted seven prison officials for abuses and opened 30 investigations for corruption-related offenses, resulting in 23 convictions.

NGOs and international observers reported that prison and detention center conditions did not improve during the year. Observers cited poor treatment of inmates and detainees and lack of professional training for administrators. In February 2008 the Constitutional Council invalidated legislative changes adopted in 2007 that criminalized prisoner protests and self-mutilation.

During the year the government reported 43 detainee deaths and 59 suicides, of which six occurred in pretrial detention facilities, 49 in prisons, and four in police cells.

According to the latest statistics available from prison monitoring NGOs, there were 50,843 prisoners and 8,298 detainees in pretrial facilities. Of the prisoners, 47,265 were men, 3,129 were women, and 449 were juveniles. Men, women, and juveniles were held separately. Detainees were held apart from prisoners. There were no reports that political prisoners were held separately from the rest of the prison population.

Incidents of inmates' self-mutilation as a protest against harsh prison conditions and abuse continued, with 28 cases involving 86 inmates reported during the year; a significant number were group mutilation.

On April 13 and 16, approximately 30 inmates from prison ES-164 in Northern Kazakhstan committed self-mutilation to protest against poor prison conditions and administrative abuse. Several prisoners were hospitalized in the Petropavlovsk hospitals, but prison officials allegedly ordered them not to discuss the incident. On April 15, prison officials released a statement alleging that the prisoners were protesting the detention of the wife of one of the prisoners on corruption charges. On April 16, financial police blamed an organized criminal group for arranging the action. On July 1, police detained and beat an ex-convict, who subsequently alleged that the beating was retribution for his public statements about the incident.

On May 13, five inmates of the Dolinka maximum security prison committed group self-mutilation to protest the facility's harsh conditions. Their injuries were treated on-site.

Civil society activists worked with the councils for public oversight of the ministries of justice and of internal Affairs, as well as the human rights ombudsman's countertorture working group, to monitor the situation in prisons and detention facilities. Many observers criticized the councils for lacking independence or any clearly defined authority or power.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but problems remained.

*Role of the Police and Security Apparatus.*—The MIA supervises the national police force, which has primary responsibility for internal security, including investigation and prevention of crimes and administrative offenses and maintenance of public order and security. The Agency for Combating Economic and Corruption Crimes (financial police) has administrative and criminal investigative powers. The KNB plays a law enforcement role in border security, internal security, antiterrorism efforts, and the investigation and interdiction of illegal or unregistered groups, such as extremist groups, military groups, political parties, religious groups, and trade unions. In February the government established a separate external intelligence service, Syrbar, which reports directly to the president. The financial police and the KNB reported directly to the president.

According to a 2008 poll released by the PGO's Crime Statistics Committee, 35 percent of the population did not believe the government could protect them from infringement of their civil rights and freedoms, specifically infringement by the police and the courts. Public perception of police effectiveness was low, and corruption among law enforcement officers was believed to be high. Authorities fired 61 officers for corruption during the year.

During the year the government maintained MIA hot lines and received more than 173 complaints about police corruption and abuse. The majority of ministers, including the prime minister, established personal blogs where citizens could submit their complaints.

The prosecutor general chaired a council for coordination of law enforcement operations. Staff included heads of other law enforcement agencies. Among many duties the council reviewed complaints against law enforcement.

The MIA cooperated with NGOs to provide human rights training for local police. The government cooperated with international organizations to provide limited law enforcement training aimed at decreasing abuse by emphasizing investigative skill development.

*Arrest Procedures and Treatment While in Detention.*—In August 2008 the government passed legislation transferring the power to sanction arrest from prosecutors to the judiciary. Prosecutors continued to have the power to authorize investigative actions, such as search and seizure. The law allows police to hold a detainee for 72 hours before bringing charges. Human rights observers criticized this period as too lengthy and said that authorities often used this detention to exert pressure and extract confessions. A bail system exists but was not widely used, and many individuals remained in pretrial detention until their trial.

Persons detained, arrested, or accused of committing a crime have the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation. The law does not require police to inform detainees that they have the right to an attorney, and in practice police did not do so. Human rights observers alleged that law enforcement officials dissuaded detainees from seeing an attorney, gathered evidence through preliminary questioning before the person's attorney arrived, and, in some cases, used corrupt defense attorneys to gather evidence. The law states that the government must provide an attorney for an indigent suspect or defendant when the suspect is a minor, has physical or mental disabilities, or faces serious criminal charges. In practice public defenders often lacked the necessary experience and training to assist defendants.

Some defendants were barred from freely choosing their defense counsel because the cases against them involved state secrets, and the law only allows lawyers who have special clearance to work on such cases. The editor and owner of the Alma-Ata Info newspaper, Ramazan Yesergepov, who a court convicted on charges of publishing secret government documents, decided to represent himself rather than select an attorney from the government-approved list. In the embezzlement case against the former manager of the state-owned uranium company KazAtomProm, Mukhtar Dzhakishev, the KNB barred Dzhakishev from meeting with his attorney, because the lawyer lacked the necessary clearance. Dzhakishev eventually chose an attorney from the list of approved lawyers and was allowed to meet with him.

Prosecutors reported continuing problems with arbitrary arrest and detention of citizens. During the first nine months of 2008, authorities released 17 persons from illegal pretrial detention and 675 persons from illegal custody in police offices. Although the government did not publicize overall statistics for the year, media reported at least 207 incidents of illegal detention and illegal custody.

The government occasionally arrested and detained government opponents and critics, sometimes for minor infractions such as unsanctioned assembly. Nevertheless, there were no allegations of prolonged detention for political offenses.

*e. Denial of Fair Public Trial.*—The law does not provide for an independent judiciary. The executive branch limited judicial independence. Prosecutors enjoyed a quasijudicial role and had authority to suspend court decisions.

Corruption was evident at every stage of the judicial process. Although judges were among the most highly paid government employees, lawyers and human rights monitors alleged that judges, prosecutors, and other officials solicited bribes in exchange for favorable rulings in the majority of criminal cases.

There are three levels in the court system: district, oblast (regional), and the Supreme Court. District courts are the court of first instance in nearly all criminal cases. Regional courts hear cases involving more serious crimes and may handle cases in rural areas that have no local courts. District court decisions may be appealed to the regional courts, and regional court decisions may be appealed to the Supreme Court. There are also military courts. Military courts have jurisdiction over civilian criminal defendants alleged to be connected to military personnel undergoing a criminal trial. Military courts use the same criminal code as civilian courts.

The Constitutional Council rules on election and referendum challenges, interprets the constitution, and determines the constitutionality of laws that parliament adopts. Citizens have no right of direct appeal to the council.

The presidentially appointed High Judicial Council recommends nominees for the Supreme Court to the president, who in turn recommends them to the senate for approval. The council makes recommendations to the president for all lower-level judges, and the president directly makes the appointments. Judges are appointed for life. The parliament may remove Supreme Court judges upon recommendation by the president, and the president may remove lower court judges.

*Trial Procedures.*—All defendants enjoy a presumption of innocence and are protected from self-incrimination. Trials were public except in instances that could compromise state secrets or when necessary to protect the private life or personal family concerns of a citizen. Nevertheless, there were several reports of journalists and observers denied access to open court hearings.

Courts conducted jury trials for aggravated murder cases, pursuant to legislation enacted in 2006. Observers noted that the juror selection process was inconsistent and that judges, who deliberate with the jurors, tended to dominate the process. However, observers also noted an increase in acquittal rates. During the year courts conducted 47 jury trials involving 69 defendants; jurors convicted 32 defendants and acquitted 14. Two cases involving 16 defendants were under appeal at year's end.

Defendants in criminal cases have the right to counsel and to a government-provided attorney if they cannot afford counsel. Under the criminal procedure code, a defendant must be represented by an attorney when the defendant is a minor, has mental or physical disabilities, does not speak the language of the court, or faces 10 or more years of imprisonment. In practice defense attorneys reportedly participated in only half of all criminal cases, in part because the government did not have sufficient funds to pay them. The law also provides defendants the right to be present at their trials, to be heard in court, and to call witnesses for the defense. They have the right to appeal a decision to a higher court.

Human rights activists reported numerous problems in the judicial system, including lack of access to court proceedings, lack of access to government-held evidence, frequent procedural violations, lack of a presumption of innocence, poor explanation of rights to defendants, denial of defense counsel motions, and failure of judges to investigate allegations that confessions had been extracted through torture or duress. Lack of due process was a problem, particularly in politically motivated trials and in cases when improper political or financial influence was alleged.

On October 20, the Almaty regional court upheld a lower court's September 3 conviction and four-year sentence of prominent human rights defender Yevgeniy Zhovtis on charges of vehicular manslaughter. The charge stemmed from a July 26 accident in which Zhovtis struck and killed a pedestrian with his car. On December 10, an Almaty district court judicial review panel refused to review the appellate court's decision based on a request by Zhovtis' defense team; at year's end it was unclear whether Zhovtis would request another judicial review of his case. Local and international observers heavily criticized the trial for numerous procedural violations. Some observers alleged that the "harsh" sentence imposed on Zhovtis, a critic of the government, was politically motivated.

*Political Prisoners and Detainees.*—Local and international human rights NGOs asserted that the prison sentence imposed on Yevgeniy Zhovtis amounted to political persecution to silence the government's most vocal critic in advance of the country's assumption of the chairmanship of the Organization for Security and Cooperation in Europe (OSCE) in 2010.



*Civil Judicial Procedures and Remedies.*—Economic and administrative court judges handle civil cases under a court structure that largely mirrors the criminal court structure. The law and constitution provide for the resolution of civil disputes in court. In practice observers viewed civil courts as corrupt and unreliable. Observers noted that litigants experienced difficulty in enforcing judgments, particularly if they did not agree to pay a percentage to the court administrator.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, the government at times infringed on these rights.

The law provides prosecutors with extensive authority to limit citizens' constitutional rights. The KNB, the MIA, financial police, and other agencies, with the concurrence of the PGO, may infringe on the secrecy of private communications and financial records as well as on the inviolability of the home. Courts may hear an appeal of a prosecutor's decision but cannot issue an immediate injunction to cease an infringement. On June 3, the parliament amended the criminal procedure code to expand the range of cases in which the police can wiretap and record communications without a warrant, allowing it in cases of medium gravity as well as in urgent and grave ones, which was previously the standard.

Government opponents and their family members continued to report that the government occasionally monitored their movements and telephone calls.

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

*a. Freedom of Speech and Press.*—The constitution and the law provide for freedom of speech and of the press; however, the government used a variety of means, including laws, harassment, licensing regulations, Internet restrictions, and criminal and administrative charges to control the media and limit freedom of expression. Judicial actions against journalists and media outlets, including civil and criminal libel suits filed by government officials, contributed to the suspension of media outlets and self-censorship.

The government limited individuals' ability to criticize the country's leadership, and regional leaders attempted to limit local media outlets' criticism of them. The law prohibits insulting the president and other senior officials. The government continued to characterize the distribution of pamphlets by Hizb ut-Tahrir (HT), a prohibited extremist political organization, as incitement for political and terrorist purposes and beyond the bounds of constitutionally protected free speech.

According to government statistics, approximately 20 percent of the 2,973 media outlets were government-owned. Many privately owned newspapers and television stations received government subsidies. The majority of broadcast media that the government did not own, including the larger outlets, were nonetheless owned by holding companies believed to be controlled by members of the president's family or by loyal associates. Media observers believed that most of the seven nationwide television broadcasters were owned wholly or partly by the government. Regional governments owned several frequencies; independent broadcasters arranged to use the majority of these.

All media were required to register with the Ministry of Culture and Information, although Web sites were exempt from this requirement. On February 6, the president signed amendments to the media law that removed requirements for media to reregister if their senior leadership changes and to obtain permission to record interviews. The licensing system was not transparent. As a result of an April 18 government tender, all radio frequencies in major cities and regions went to one company that the government favored. Similarly, in January 2008 the government conducted a tender for new licenses for television frequencies, but media monitors charged that the government predetermined the results and awarded all new television frequencies to companies that it favored. In March 2008 government-owned Samgau Holding bought 49.9 percent of Khabar stock in an auction, where neither the names of the bidders nor the prices were manipulated. Nevertheless, public activists and several politicians criticized the deal as unfair and alleged that the government orchestrated the process to consolidate its control of the media.

The law limits the rebroadcast of foreign-produced programming to 20 percent of a station's total airtime. This provision burdened smaller, less developed regional television stations that lacked resources to develop their own programs, although the government did not sanction any media outlet under this provision.

Harassment of and violence against journalists remained a problem. Press advocacy NGO Adil Soz reported 188 incidents of harassment and violence against journalists during the first seven months of the year, compared with 226 such incidents during the first 11 months of 2008. Journalists working in opposition media and those covering corruption reported harassment and intimidation by government officials and private actors.

On January 18, unknown assailants attacked Yermek Boltay, Web site editor and part-time contributor to Radio Free Europe and Radio Azzatyk. Several men reportedly approached Boltay on the street and asked him for money; when he refused they assaulted him. The police treated the case as a "hooligan attack" and had not apprehended any suspects by year's end.

On August 8, in a closed hearing, Taraz city court found Ramazan Yesergepov, owner and editor in chief of the Alma-Ata Info newspaper, guilty of divulging classified documents and sentenced him to three years in prison. The charge stemmed from a November 2008 article in Alma-Ata Info that contained ostensibly secret KNB documents. On August 13, in a separate hearing, the Supreme Court ruled against Alma-Ata Info and upheld a lower court's ruling that suspended the newspaper for three months for publishing classified documents. On October 22, the Zhambyl regional court denied Yesergepov's appeal and upheld the original conviction.

On December 22, Kyrgyzstani opposition journalist Gennady Pavlyuk died in Almaty from injuries sustained after unknown assailants allegedly bound his hands and feet with tape and pushed him from a sixth-floor window on December 16. According to media reports, Pavlyuk intended to establish an opposition newspaper and Internet portal in Kyrgyzstan before the end of the year. On December 28, the MOI claimed it had identified several suspects in the case, all of whom were Kyrgyzstani nationals. The MOI did not provide further details on the suspects or on their possible motive. The outcome of the investigation was pending at year's end.

Incidents of government pressure on the media continued. The NGO Adil Soz reported that the management of TDK-42, a regional television station, fired its reporter, Lukhan Akhmedyarov, in January after he asked the regional governor during a press conference whether his relatives would continue to spend government funds as they had in the past.

There were no reports of forced closures under the restrictive media law enacted in 2006. The amendment to the media law included tightened government control, requiring media owners to reregister upon any change in editor, address, or frequency of publishing; a prohibition on persons convicted of libel holding a managing editor position at another media outlet; a prohibition on registering an outlet under a name similar to one that had been closed by court action; and imposition of fines against broadcasters for failing to offer the required 50 percent to 50 percent mix of Kazakh- and Russian-language programming time.

The law enables the government to restrict media content under amendments that prohibit undermining state security or advocating class, social, race, national, or religious superiority, or cruelty and violence. Owners, editors, distributors, and journalists may be held civilly and criminally responsible for content unless it came from an official source. The government used this provision to limit media freedom. The law prohibits publication of any statement that promotes or glorifies "extremism," a term that international legal experts said the government had not clearly defined.

The government subjected media outlets willing to criticize the president directly to intimidation such as law enforcement actions or civil suits. Although these actions had a chilling effect on media outlets, criticism of government policies continued.

The law on state secrets makes it a criminal offense to release information about the health, finances, or private life of the president as well as economic information, such as mineral reserves and government debt owed to foreign creditors. To avoid possible legal problems, media outlets often practiced self-censorship regarding information on the president or his family.

Private parties could initiate criminal libel suits on behalf of the government, and an individual filing such a suit would be able to file a civil suit as well, based upon the same allegations. Officials increasingly used the law's restrictive libel and defamation provisions to constrain media outlets from publishing unflattering information. Both the criminal and civil codes contain articles establishing broad liability for libel. The requirement that owners, editors, distributors, publishing houses, and journalists prove the veracity of published information, regardless of its source, promoted self-censorship at each level. At times fines for libel were exorbitant and caused some media outlets to close.

In contrast to the previous year, NGOs monitors reported an increase in libel cases against journalists and media outlets. On February 26, the Almaty appellate court ordered the opposition newspaper Taszhargan to pay a fine of 30 million tenge (approximately \$200,000) to parliamentarian Romin Madinov for insulting his honor and dignity. The appellate decision increased the district court's original decision, which levied a three million tenge fine (approximately \$20,000). Media watchdog

NGOs warned that the decision to increase a penalty as a result of an appeal set a precedent that could serve as a deliberate warning to journalists. Unable to pay the fine, the newspaper ceased publishing.

On September 9, the Almaty city court decided in favor of BTA Bank's claim of slander against the opposition weekly Respublika and ordered the newspaper to pay the bank 60 million tenge (approximately \$400,000). The bank alleged that the newspaper caused a run on the bank's deposits by publishing articles that undermined its business reputation. On September 18, court officers seized a print run of the newspaper and froze the bank accounts of the newspaper's management. On October 29, the Almaty city court denied the newspaper's appeal and upheld the lower court's decision. Financial police raided the printing house that printed the newspaper, Comet-S, on September 21 and 23, seizing copies of Respublika and other newspapers printed there. According to the newspaper's management, other printing houses refused to print the newspaper for fear of retribution from authorities. At year's end the newspaper's staff was publishing the paper on high-speed copy machines.

On February 6, the Petropavlovsk court fined Vremya newspaper editor Victor Miroshnichenko 250,000 tenge (approximately \$1,670) for insulting the deputy director of the regional police department and ordered him and the newspaper to pay 100,000 tenge (approximately \$670) in moral damages of the plaintiff.

*Internet Freedom.*—Observers reported that the government monitored e-mail and Internet activity, blocked or slowed access to opposition Web sites, and planted progovernment propaganda in Internet chat rooms. The state regulated the country's only Internet service providers, state-owned Kaztelecom and privately owned Nursat. Nevertheless, Web sites expressed a wide variety of views, including viewpoints critical of the government. According to government statistics, there were 1.2 million regular (primarily urban) Internet users in the country (7 percent of the population).

On July 11, the president signed amendments to the legislation governing the Internet. Many local and international observers criticized the amendments as infringing on freedom of speech on the Internet. The new law reclassified all Web sites, including chat rooms and blogs, as "media outlets," making them subject to the media law. It broadened the definition of "disseminated media products" to include information posted on the Internet. It also made it easier for the government to shut down media outlets, including Web sites, for violations during electoral periods or for inciting interethnic violence.

The Agency for Information and Communication (AIC) controlled the registration of .kz domains. The AIC may suspend or revoke registration for failure to locate servers in the country. Observers criticized the registration process as unduly restrictive and vulnerable to abuse.

The media monitoring group Adil Soz reported that government blocking of the Web site Live Journal continued intermittently throughout the year, although the site remained accessible through other servers. The government began blocking the site in 2007 in connection with the publication of audio recordings and transcripts of telephone conversations between high-level government officials.

The opposition-oriented Web site zona.kz reported coordinated cyber attacks against it in February and April and a 10-day attack in May. On February 13, a cyber attack interrupted the Web site of opposition newspaper Respublika. The managers of both outlets ascribed the attacks to the sites' critical comments of the government.

*Academic Freedom and Cultural Events.*—The government generally did not restrict academic freedom, although academics, like all citizens, were prohibited from infringing on the dignity and honor of the president.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for limited freedom of assembly. There were significant restrictions on this right in practice, and police used force to disrupt peaceful demonstrations. The law defines unsanctioned gatherings, public meetings, marches, demonstrations, illegal picketing, and strikes that upset social and political stability as national security threats.

Under the laws governing public assembly, organizations must apply to local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance. Opposition and human rights monitors complained that complicated and vague procedures and the 10-day notification period made it difficult for groups to organize public meetings and demonstrations and reported that local authorities turned down most applications for demonstrations. Authorities often detained briefly and fined organizers of unsanctioned gatherings, including political party gatherings. The National Human Rights Action Plan 2009-12, which the Presidential

Human Rights Commission presented to the media on September 10, noted that the country's legal norms on public gatherings at times contradicted international standards and proposed that a new law on public assemblies be adopted by the end of 2010.

The PGO urged members of the Azat political party not to gather on February 21, although the party had received formal permission for a demonstration from the Almaty mayor's office. After several newspapers reported Azat's call for the public to join the demonstration, the PGO declared that Azat's message contained elements of "social and clan enmity" that constituted "political extremism" as defined in the criminal code. The prosecutor threatened to bring criminal charges against anyone who participated in the demonstration for "inciting social and clan enmity."

During the year authorities dispersed several gatherings organized without preliminary authorization. In February authorities prohibited protests by several citizens' groups and political parties throughout the country, alleging that other events were scheduled for the same day and time. On April 21, police detained 12 activists with the youth human rights organization Ar.Rukh.Khak for three hours when they tried to meet with journalists on the main square in Almaty. The group had not registered the meeting with authorities. In Almaty the number of protests increased due to the economic crisis. In most cases authorities denied the rally permits.

On July 21, the Almaty administrative court fined Bulat Abilov, the leader of the opposition party Azat, 64,800 tenge (approximately \$430) for holding an unsanctioned rally on June 24 in support of media freedom. Abilov asserted that city authorities had denied his requests for rally permits. On July 30, the same court sentenced the leader of the Talmas movement, Ainur Kurmanov, to 15 days in jail for holding an unsanctioned action on June 24.

On September 16, police arrested Andrey Sviridov, a journalist working for the Human Rights Bureau, for holding an unsanctioned protest against the conviction of Yevgeniy Zhovtis. Sviridov was released after three hours in detention. The next day the court found him guilty of holding an unsanctioned rally and fined him 12,730 tenge (about \$75). Sviridov's colleague Victor Kovtunovski held a similar protest on September 9 and received a heavier fine of 32,400 tenge (about \$216).

*Freedom of Association.*—The law provides for limited freedom of association. There were significant restrictions on this right in practice. Any public organization set up by citizens, including religious groups, must be registered with the Ministry of Justice (MOJ) as well as with MOJ branches in every region in which the organization conducts activities. The law requires public or religious associations to define their specific activities, and associations that act outside the scope of their charter may be warned, fined, suspended, or ultimately prohibited. Participation in unregistered public organizations may result in administrative or criminal liability, such as fines, dissolution, probation, or imprisonment.

The prohibition on unregistered organizations often provided a pretext for authorities to interfere with the activities of organizations. Membership organizations, including religious groups, must have 10 members to register at the local level and must have branches in more than half of the regions for national registration. Political parties and labor unions were considered membership organizations but had additional specific registration requirements. On February 6, the president signed amendments to the political party law that lowered the number of signatures necessary for registration from 50,000 to 40,000. If authorities challenge the applications alleging irregular signatures, the registration process can continue as long as the total number of eligible signatures remains above the minimum. The law prohibits parties established on an ethnic, gender, or religious basis. The law prohibits members of the armed forces, employees of national security and law enforcement organizations, and judges from participating in trade unions or political parties.

On May 19, the Special Administrative Court in Almaty found Vladimir Kozlov guilty of leading the unregistered political party Alga and fined him 127,000 tenge (approximately \$900). The court of appeals upheld the ruling on June 2. On December 18, the MOJ suspended Alga's formal registration request for allegedly submitting ineligible signatures. Alga had been waiting for formal registration with the MOJ since 2006.

NGOs reported that the registration process was fairly straightforward, although corruption in the process was common. NGOs involved in human rights advocacy and political activities faced greater administrative delays and obstacles, although there were no reports that the government denied registration or closed organizations.

The Human Rights Bureau, Almaty Polyton Club, and the Semey-based NGO Dom reported that the government investigated them for allegedly failing to pay taxes on grants from a foreign donor organization. Tax authorities froze the accounts of Polyton and Dom. In February the Human Rights Bureau and Polyton

Club successfully argued the grants' tax-exempt status. On August 7, the Supreme Court ruled against the NGO Dom in a similar case and ordered the organization to pay 5 million tenge (approximately \$33,000) in corporate tax.

The 2005 extremism law criminalizes membership in certain prohibited organizations. HT was the only organization prohibited under this law. Although it maintained that it was committed to nonviolence, HT promoted hate and praised acts of terrorism. The party's virulently anti-Semitic and anti-Western literature called for the overthrow of secular governments, including those in Central Asia, to be replaced with a worldwide Islamic government.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion, and the government generally respected this right in practice. Local and regional officials attempted on occasion to limit or control the practice of religion by several groups, especially religious communities that the government defined as "nontraditional." The constitution defines the country as a secular state and provides the right to decline religious affiliation.

The government continued to express publicly its support for religious tolerance and diversity, but also publicly criticized "nontraditional" religious groups and called for new legislation to increase its control of missionaries and the dissemination of religious materials. On February 12, the Constitutional Council declared that the restrictive amendments to the religion law adopted by parliament in November 2008 were unconstitutional on technical grounds. The government's enforcement of the law led to continuing problems for some unregistered groups, as the law imposes mandatory registration requirements on missionaries and religious organizations. Although the majority of religious communities worshipped largely without government interference, local officials attempted on occasion to limit the practice of religion by some minority groups.

The generally amicable relations between religious groups in society contributed to religious freedom. The country is multiethnic, with a long tradition of tolerance and secularism. In particular Muslim, Russian Orthodox, Roman Catholic, and Jewish leaders reported high levels of acceptance in society. The population, particularly in rural areas, was sometimes wary of religions the government deemed "nontraditional." The number of registered religious groups and places of worship increased during the year for virtually all religious groups, except minority and nontraditional groups. In August the government introduced a class on religions in the high school curriculum.

The religion law narrows the constitution's legal protections for religious freedom. Under the law religious groups must register both with the central government and in the individual regions in which they have congregations. Missionaries must register annually and be sponsored by a registered religious organization. All supporting materials must be provided with the registration applications; it is illegal to use other materials. Only a registered organization may act as a legal entity to buy or rent real property, hire employees, or engage in other legal transactions.

In practice most religious communities chose to register with the government and ultimately obtained registration. Minority religious groups sometimes reported long delays in the process. Unregistered religious groups reported an increase in court actions against them and an increase in the monetary amount of fines imposed for nonregistration. Some religious groups also criticized the intrusive nature of the registration process, which required them to provide information about ethnicity, family status, religious education, employment, and political affiliation.

Minority religious groups reported sustained government pressure against their communities. During the year the Baptist Council of Churches, which has a policy not to seek registration in former Soviet countries, continued to report new cases against churchgoers for participating in the activities of an unregistered group. Protestant groups reported an increase in intrusive inspections from financial police. Human rights groups reported that the Ministry of Culture and Information partially financed five crisis centers for victims of "dangerous religious sects."

On January 26, the Atyrau city court upheld the Jehovah's Witnesses' right to register a religious center, overturning seven years of denials by regional MOJ officials and the akim (governor).

On March 10, the Almaty appellate court vacated a two-year prison sentence against Elizaveta Drenicheva, a Unification Church member and Russian citizen, but upheld the guilty verdict. The court fined Drenicheva 1,273 tenge (approximately \$8), but she did not have to pay it because of time spent in detention awaiting the appellate ruling. On January 9, an Almaty district court found Drenicheva guilty on charges of promoting the superiority of a group of citizens based on religion. The case was based on several religious lectures Drenicheva gave on the teachings of Sun Myung Moon. Human rights activists and international observers sharply criticized the decision as an infringement on freedom of conscience.

On June 12, the Karaganda regional court upheld a decision of the Specialized Interdistrict Economic Court of Karaganda to close the Church of Scientology in Karaganda. On June 22, the president of the Scientology Church of Karaganda, Vadim Vitushkin, reported that the church's appeal was heard in court without the presence of the church's representatives and lawyers. The appeals court upheld the lower court's decision on the same day.

Members of Jehovah's Witnesses reported somewhat improved relations with authorities but noted several cases of government interference with their attempts to conduct ceremonies and other gatherings.

Local and foreign missionaries must register annually with the MOJ and provide information on religious affiliation, territory of missionary work, and time period for conducting that work. The MOJ may refuse to register missionaries whose work would be inconsistent with any law, including laws that prohibit the incitement of interethnic or interreligious hatred. Foreign missionaries, like all visitors, are required to register with migration police and indicate the purpose of their stay. The constitution requires foreign religious associations to conduct their activities, including appointing the heads of religious associations, "in coordination with appropriate state institutions." Although foreigners may register religious organizations, the government requires that the majority of the 10 founders be local citizens.

Although the law is vague on the definition of missionary activity, authorities frequently interpreted any religious activity by visiting foreigners as missionary activity and expelled those who were not registered as missionaries. During the year 15 foreign citizens were deported for conducting missionary activities without registration.

Observers believed that security officials informally monitored some religious activity, particularly Muslim imams' sermons. There were no reports that any monitoring involved interference or harassment. There were no restrictions on religious travel. Media reported several cases of public schools prohibiting female students from wearing the hijab (Muslim head covering) because it conflicted with uniform rules. On December 1 to 4, in response to broad public interest, representatives of the MOJ spoke on public television to clarify that, although the constitution guarantees everyone's right to follow any religion, students in public schools must follow the established uniform rules.

In contrast with 2008, the Karasai regional government near Almaty moved toward an agreement with the Almaty Hare Krishnas to resolve a property dispute regarding a plot of land they had been using in the Almaty region. In March local authorities offered the Hare Krishnas land close to Almaty for their temple and promised to find pasture land for the community's cows. Negotiations were ongoing at the end of the year.

*Societal Abuses and Discrimination.*—Observers noted that negative media coverage of "nontraditional" religious groups lessened after the Constitutional Council overturned the November 2008 amendments to the religion law on February 12. Nevertheless, some minority groups, including evangelical Christians and Scientologists, continued to face negative media coverage.

Approximately 30,000 to 40,000 Jews lived in the country. There were no reports of anti-Semitic acts apart from the distribution of anti-Semitic literature by HT. Leaders of the Jewish community reported no cases of anti-Semitism by the government or in society.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement, but there were some regulatory restrictions. The government generally respected the right in practice, and citizens were able to move within the country with relative ease. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other organizations to provide some protection and assistance to refugees, asylum seekers, and other persons of concern.

The government required citizens and foreigners who remained in the country for more than five days to register with migration police. Foreigners entering the country may register at certain border posts. Registration in most of the country generally was routine; nonetheless, some foreign citizens reported that local authorities regularly requested bribes before completing registration. During the year the MIA deported 17,545 foreigners for gross violations of the visitor rules; the majority of the foreigners were citizens of countries in the Commonwealth of Independent States (CIS). The government required persons who were suspects in criminal investigations to sign statements that they would not leave their place of residence and

detained individuals routinely for identity checks without suspicion of a criminal offense.

Although the government did not require exit visas for temporary travel of citizens, there were certain instances in which the government could deny exit from the country, including for travelers subject to pending criminal or civil legal proceedings, unfulfilled prison sentences, or compulsory military duty. Travelers who presented false documentation during the exit process could be denied exit, and authorities controlled travel by active-duty military. The law on national security requires that persons who had access to state secrets obtain permission from their employing government agency for temporary exit from the country.

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

The law provides for the right to emigrate and the right to repatriate, and the government generally respected these rights in practice. An exception is the law on national security, which prohibits persons who had access to state secrets from taking up permanent residence abroad for five years after leaving government service. The government required a permanent exit visa for emigration; obtaining this visa required criminal checks, credit checks, and letters from parents and any dependents expressing no objection to exit visa issuance.

Authorities required foreigners to obtain prior permission to travel to certain border areas with China and cities in close proximity to military installations. The government continued to declare particular areas closed to foreigners due to their proximity to military bases and the space launch center at Baikonur. In practice foreigners could visit these areas with prior permission from the MIA.

*Protection of Refugees.*—The country is party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. On December 9, the president signed a new law on refugees that outlines refugee rights, including the right to be registered and be issued a document. The government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government did not forcibly return any refugees to Uzbekistan during the year.

In practice the government did not expel or return refugees or asylum seekers despite some detentions and interrogations of such persons. The Office of the UNHCR reported that, in July and August, the MIA and local Almaty law enforcement detained several Uighur refugees, holding them for several hours or, in one case, for three days. The UNHCR maintained regular access to the detainees and did not report abuse.

On September 7, armed and masked men, later identified as Almaty KNB officers, detained three Uzbekistani and Chinese Uighur national refugees and two asylum seekers and held them for three hours. Some reported the KNB officers threatened them with deportation or put plastic bags on their heads. In response to the UNHCR's inquiry, the KNB said it was running checks on the detainees. The detainees reported that the KNB officers accused them of killing a policeman in Uzbekistan. The UNHCR sent a formal protest letter to the government.

The government generally registered asylum seekers and determined their status in consultation with the UNHCR, with the exceptions of citizens from the CIS countries or China. Only the president could grant political asylum, and he did not do so during the year. In some cases the government allowed asylum seekers and refugees to stay in the country while the UNHCR found third countries that would accept them. Although the government registered refugees already present in the country, it did not accept any refugees for resettlement and naturalization. The government also provided temporary protection to individuals, including some Afghan refugees, who might not qualify as refugees.

In practice the government does not grant refugee or asylum status to citizens of CIS countries or China. The government maintained that citizens of CIS countries cannot by definition need refugee status because they enjoy freedom of movement under the visa-free regime in the CIS. Citizens of CIS countries are processed under migration laws that give them some renewable temporary status but not the full protection of refugee status. Citizens from China were not granted any legal status, but the government informally tolerated their presence. Activists reported that, in practice, many refugees from CIS countries and China did not seek formal status. Those who sought protection from the UNHCR generally had access to such processes, and the government generally respected UNHCR refugee certificates.

During the year the UNHCR reported generally good cooperation from the government in assisting refugees and asylum seekers. The government usually allowed the UNHCR access to detained foreigners to determine whether they qualified for refugee status. The government was generally tolerant in its treatment of local refugee populations, except for a few citizens from former Soviet republics. The government

often did not allow refugees without passports or those who had entered the country illegally to register, although the UNHCR intervened on behalf of those it judged to be asylum seekers under the UNHCR's mandate.

The Committee on Migration in the Ministry of Labor continued to work with the UNHCR and a local NGO, Kazakhstan Refugee Legal Support, to review refugee claims. Consistent with the Minsk Convention on Migration within the CIS, the government did not recognize Chechens as refugees. Chechens were eligible for temporary legal resident status for up to 180 days, as any other CIS citizen. This temporary registration was renewable, but local migration officials have discretion over the renewal process. In some cases they solicited bribes, exploiting the vulnerability of Chechens due to their inability to return safely to Chechnya. The government has an agreement with China not to tolerate the presence of ethnic separatists from one country on the territory of the other. Human rights monitors remained concerned about the effect of this agreement on Uighurs from China living in the country, and there were reports that the government forcibly returned Uighurs to China during the year.

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

The constitution and law provide for a democratic government with universal suffrage for those older than 18 years of age; in practice the government severely limited the right of citizens to change their government.

Although the 2007 constitutional amendments increased legislative authority in some spheres, the constitution continues to concentrate power in the presidency. The president appoints and dismisses most high-level government officials, including the prime minister, the cabinet, the prosecutor general, the KNB chief, Supreme Court and lower-level judges, regional governors, and the chairman and two members of the Central Election Commission (CEC), which oversees presidential and parliamentary elections. The Mazhilis (lower house of parliament) must confirm the president's choice of prime minister, and the senate must confirm the president's choice of prosecutor general, chief of the KNB, Supreme Court judges, and head of the national bank. The parliament has never failed to confirm a presidential nomination. Modifying or amending the constitution effectively requires the president's consent. The 2007 constitutional amendments exempted President Nazarbayev from the two-term presidential term limit.

The government continued to take some steps toward meeting democratic reform commitments it made at the 2007 OSCE Ministerial. In February the president signed into law amendments on political parties, parliamentary elections, and the media. Some civil society representatives and opposition party members criticized the legislation for not going far enough with reforms and claimed that the legislative process lacked transparency.

*Elections and Political Participation.*—In the 2007 elections for the Mazhilis, President Nazarbayev's Nur Otan party, the country's dominant political force, received 88 percent of the vote, winning every seat in the chamber. No other party received the necessary 7 percent of the vote to obtain Mazhilis seats.

An OSCE election assessment noted several areas of improvement in the conduct of previous national elections, including increased transparency on the part of the CEC. Nevertheless, the assessment criticized a number of legal provisions related to the election including excessive requirements for registration of political parties; limitations on the right to seek public office, such as 10-year residency and party membership requirements; and a provision allowing the Assembly of People of Kazakhstan—an unelected body whose members President Nazarbayev appointed—to choose nine of the 107 members of the Mazhilis. Opposition leaders filed 400 court cases alleging violations. The courts dismissed or denied the majority of the cases.

All registered parties that sought to compete in the 2007 elections were permitted to do so, although the system introduced by 2007 constitutional amendments makes no provision for independent candidates. Political parties must register members' personal information, including date and place of birth, address, and place of employment. This requirement discouraged many citizens from joining political parties. There were credible allegations that persons entering government service were pressured to join the Nur Otan party.

At year's end there were 10 registered political parties, including opposition parties Ak Zhol, Azat, the National Social Democratic Party, and the Communist Party of Kazakhstan.

In order to register, a political party must hold a founding congress with minimum attendance of 1,000 delegates from two-thirds of the oblasts and the cities of Astana and Almaty. The February 6 amendments to the political party law lowered



the number of signatures necessary for registration from 50,000 to 40,000. Parties must obtain at least 700 signatures from each oblast and the cities of Astana and Almaty, registration from the CEC, and registration from each oblast-level election commission.

The February 9 amendments to the law on elections mandate a two-party parliament by stipulating that the party with the second-highest vote count automatically receives seats in the Mazhilis, even if it fails to reach the 7 percent threshold.

The law prohibits parties established on an ethnic, gender, or religious basis.

On May 22, the Almalinskiy district court in Almaty found Azat chairman Bulat Abilov, Shanyrak movement's Asylbek Kazhakhmetov, and oppositionist Tolen Tokhtasynov guilty of concealing the whereabouts of a suspect in a murder investigation. The court did not impose a sentence on the three oppositionists, because the statute of limitations on the case had run out. The three appealed the charges, claiming the allegations were politically motivated. On July 29, the Almaty City Appellate Court denied the appeal.

There were two women in the 47-seat senate and 19 women in the 107-member Mazhilis. There was one woman in the cabinet and one chaired a national agency. Traditional attitudes sometimes hindered women from holding high office or playing active roles in political life, although there were no legal restrictions on the participation of women and minorities in politics. There were nine non-Kazakhs in the senate, and 27 in the Mazhilis. There were two non-Kazakh cabinet members. Under the 2007 constitutional amendments, the president gained the ability to appoint 15 members of the senate, with the requirement that the appointments facilitate representation of different ethnic and cultural groups.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Corruption was widespread in the executive branch, various law enforcement agencies, local government administrations, the education system, and the judiciary. The MIA, financial police, the KNB, and the Disciplinary State Service Commission are responsible for combating corruption. Opposition leaders and human rights NGOs accused the government of rampant corruption. According to the World Bank's Worldwide Governance Indicators, corruption in the country was a problem.

The government intensified its campaign to address corruption, and several highly placed government officials were investigated for embezzlement and abuse of office. On March 24, a court sentenced former aide to the president Serik Burkitbayev to six years in prison for committing economic crimes. On April 13, the KNB arrested Deputy Defense Minister Kazhimurat Mayermanov for alleged abuse of power in defense procurement. On May 24, the KNB arrested the chairman of the state uranium company, Mukhtar Dzhakishev, on charges of abuse of office. The investigation was ongoing at year's end.

Lower and middle-ranking officials and minor political figures were penalized on corruption charges. The government reported that, during the first 10 months of the year, 1,693 corruption crimes were disclosed, including 626 bribery cases, 332 cases of abuse of power, 60 cases of excessive use of power, 365 cases of embezzlement, five cases of money laundering, and two cases of economic smuggling. In July the Customs Committee announced that 190 criminal cases had been opened against corrupt customs officials since the beginning of the year. On July 19, Supreme Court Chairman Musabek Alimbekov told the media that 24 judges had been fired for incompetence since the beginning of the year. Five judges were convicted for corruption. On September 1, President Nazarbayev publicly ordered that all new legislation undergo an "anticorruption examination" to eliminate loopholes that could lead to bribery or embezzlement.

The law mandates that the government, public associations, officials, and media outlets provide citizens with information that affects their rights and interests; in practice citizens' requests for information were not fulfilled in a timely manner.

Although parliament published several draft laws, some parliamentary debates, and occasionally its voting record, many parliamentary activities remained outside public view. Accredited journalists and representatives of public associations may observe some parliamentary sessions via video link from a separate room. Transcripts of parliamentary sessions were not available to the public. Parliament closed to the public and the media its discussion of controversial legislation during the year.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated effectively, with relative freedom to investigate and publish their findings on human rights cases; however, the government restricted certain activities of domestic and international human rights NGOs. International human rights groups reported that the government continued to monitor the activities of NGOs that worked on sensitive issues and noted government harassment, including police visits and surveillance of NGO offices and personnel.

The Kazakhstan International Bureau of Human Rights (KIBHR), the Almaty Helsinki Commission, the Republican Network of Independent Monitors, the Charter for Human Rights, Penal Reform International, and Adil Soz were among the most active local human rights NGOs and occasionally faced difficulties in registration and acquiring office space and technical facilities. They also reported the government audited their records and imposed various legal constraints.

On September 22, unidentified persons assaulted Aynur Kurmanov, the head of the Talmas public association, near his home. Kurmanov and Azat party representatives claimed that the attack directly related to his work with trade unions and alleged that the authorities were involved with the attack. A police investigation was pending at year's end.

In general the government did not prevent international NGOs and multilateral institutions dealing with human rights from visiting the country and meeting with local human rights groups and government officials. The government cooperated with the OSCE and its field mission. The UN, the International Organization for Migration, and the International Red Crescent Society also operated freely in the country.

National security laws prohibit foreigners, international organizations, NGOs, and other nonprofit organizations from engaging in political activities. The law stipulates that a noncommercial organization must provide information to tax authorities on its founders, activities, and foreign sources of funding, as well as income, property, expenses, and employee records. International organizations are prohibited from funding unregistered entities.

The Presidential Commission on Human Rights is a consultative and advisory body that includes members from the public appointed by the president. The commission reviews and investigates complaints, issues recommendations, monitors fulfillment of international human rights conventions, and publishes annual human rights reports. The commission does not have legal authority to remedy human rights violations or implement its recommendations. On September 10, the commission presented the National Action Plan on Human Rights for 2009-12. Leading human rights NGOs made a significant contribution to the draft plan. Civil society activists considered it an ambitious, well-prepared document, but expressed concern regarding its implementation.

The presidentially appointed human rights ombudsman investigated complaints by citizens of violations of their rights by state agencies, although the ombudsman was not authorized to investigate complaints concerning the president, heads of government agencies, the parliament, the cabinet, the Constitutional Council, the prosecutor general, the CEC, or the courts. The Ombudsman's Office has authority to appeal to the president, cabinet, or parliament to resolve citizens' complaints, to cooperate with international human rights organizations and NGOs, to meet with government officials concerning human rights violations, to visit certain facilities such as military units and prisons, and to publicize results of investigations in the media. The ombudsman also published an annual human rights report. During the year the ombudsman occasionally briefed the media and issued reports discussing complaints it had investigated. The ombudsman received 1,090 complaints during the year and provided relief to 119 citizens. Many of the complaints concerned court rulings in which the ombudsman had no jurisdiction.

Domestic human rights observers noted that, although government human rights investigators did some laudable work, particularly with less controversial social problems and issues involving lower-level elements of the bureaucracy, the Ombudsman's Office and the human rights commission were limited in their ability to stop human rights abuses or punish perpetrators. Observers noted that the commission and the ombudsman avoided addressing underlying structural problems that led to human rights violations.

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

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not effectively enforce the law. Violence against women, trafficking in persons, and discrimination against persons with dis-

abilities, homosexual activity, and nonethnic Kazakhs in government were problems.

*Women.*—The law criminalizes rape. The punishment for rape, including spousal rape, ranges from three to 15 years' imprisonment. The government reported 734 criminal rape cases. Under the law a prosecutor cannot initiate a rape case absent aggravating circumstances, such as gang rape, unless the victim files a complaint. Once a complaint is filed, the criminal investigation cannot be dismissed if the rape victim recants or refuses to cooperate further with the investigation. This provision is intended to protect victims from coercion. There were anecdotal reports of police and judicial reluctance to act on rape and spousal rape cases.

Violence against women, including domestic violence, was a problem. On December 7, President Nazarbayev signed a new law on domestic violence. The law defines for the first time "domestic violence" and "victim"; identifies various types of violence, such as physical, psychological, sexual, and economic; and outlines the responsibilities of the local and national governments and NGOs in providing support to domestic violence victims. The law also outlines mechanisms for issuance of restraining orders and provides for 24-hour administrative detention of abusers. The criminal procedure code sets the maximum sentence for spousal assault and battery at 10 years in prison, which is the same as for any beating.

According to NGOs domestic violence increased. Although official statistics were scarce, activists assessed that one in four families experienced domestic violence. The government reported 761 domestic violence crimes during the year. NGOs reported that 40 percent of such crimes went unreported.

Police intervened in family disputes only when they believed the abuse was life-threatening. According to NGO estimates, police investigated approximately 10 percent of such cases. NGOs conducted training for police officers on how to handle victims of domestic violence.

NGOs reported that women often withdrew their complaints as a result of economic insecurity. When victims pressed charges for domestic violence or spousal rape, police sometimes tried to persuade them not to pursue a case. When domestic violence cases came to trial, the charge was most often light battery, for which judges sentenced domestic abusers to incarceration at a minimum security labor colony and 120 to 180 hours of work. Sentences for more serious cases of battery, including spousal battery, range from three months to three years' imprisonment; the maximum sentence for aggravated battery is 10 years' imprisonment.

According to the government, there were 25 crisis centers in the country providing assistance to women and two centers that provided assistance to men. All the crisis centers received funding through government and international grants to NGOs. A number of smaller NGOs provided assistance to victims. Six of the crisis centers also provided shelter for victims of violence.

Prostitution was a serious problem. Prostitution is not prohibited by law, although forced prostitution, prostitution connected to organized crime, and acts facilitating prostitution, such as operating a brothel or prostitution ring, are illegal. During the year the government investigated 169 individuals for prostitution-related crimes; 164 individuals were convicted. NGOs reported that criminal prostitution rings often included local law enforcement officials.

Sexual harassment remained a problem. The law prohibits some forms of sexual harassment, but legal and gender experts regarded the legislation as inadequate to address the problem. There were reports of incidents of harassment, but in no instance was the victim protected under the law, nor were there reports of any cases prosecuted.

According to the Population Reference Bureau (PRB), the birth rate in the country was 23 births annually per 1,000 members of the population and the infant mortality rate was 32 infant deaths per 1,000 live births.

Couples and individuals are free to decide the number, spacing, and timing of their children, and have the means to do so free from discrimination, coercion, or violence. Modern contraceptive methods were widely available. Less than 1 percent of women between the ages 15 and 24 and less than 1 percent of the adult population between the ages of 15 and 49 years had contracted or were living with HIV/AIDS. Women and men received equal treatment for sexually transmitted infections. Skilled personnel attended 99 percent of births, and 100 percent of women received at least one postnatal care visit, according to the PRB.

The constitution and law provide for equal rights and freedoms for men and women. On December 10, the president signed a new gender equality law that defines the terms "gender," "gender equality," "sexual discrimination," and "equal opportunity" and prohibits discrimination based on gender. The financial and economic crisis affected women more than men with more women than men losing their jobs. According to observers women in rural areas faced greater discrimination than

women in urban areas and suffered from a greater incidence of domestic violence, limited education and employment opportunities, limited access to information, and discrimination in their land and property rights.

*Children.*—Citizenship is derived both by birth within the country's territory (*jus soli*) and from one's parents (*jus sanguinis*). The government is required to register all births immediately.

Children's rights are governed by the Law on the Rights of the Child, the Marriage, and Family, the Law on Prevention of Juvenile Delinquency, the Law on Social and Medical Support to Children with Disabilities, and related UN conventions to which the country is a party. In 2006 the government established a Committee on Protection of Children's Rights within the Ministry of Education and Science.

Education is mandatory through 16 years of age or secondary school; elementary schooling generally begins at age six. Primary and secondary education are free and universal. The law provides equal access to education for boys and girls. The Ministry of Education and Science estimated 99 percent enrollment of school-aged children. The law provides for access to public education for refugee and illegal migrant children. In some cases these children were denied access to schools or their parents did not enroll them for fear of discovery and deportation. According to the Committee on the Protection of Children's Rights, more than 6,000 children were identified as "street children" during the year. According to media reporting, homeless children apprehended by police were placed in centers for temporary detention, where they received medical and psychological assistance before they were released or sent to orphanages.

The law provides that medical care for all children irrespective of gender, and in practice children received such care.

There were reports of child abuse, although there was no societal pattern. NGOs estimated that more than half of all children younger than 14 years old experienced at least one incident of physical or psychological abuse by adults. Abuse was more common in rural areas. During the year the MIA permanently terminated custody rights of 923 abusive parents. Minors who are 16 years old or older have the right to file petitions related to their interests directly with a court.

NGOs reported that a growing number of children in orphanages, boarding schools, and detention facilities for delinquent children were victims of violence, and there were increased media reports on abuses in orphanages and other institutions. According to media reports, incidents of illegal placement of delinquent children in special correction facilities (prisons for underage criminals) occurred. In rare cases in which the abusive teachers were held liable, delinquent children received lenient punishment.

In June D. Seitkhanov, a teacher at the Zyrianovsk boarding school for children with mental disabilities, was convicted for "inappropriate performance of duties in the education of underage persons related to abusive treatment." The court sentenced Seitkhanov to one year of restricted freedom of movement and a two-year prohibition from teaching.

*Trafficking in Persons.*—The law prohibits trafficking in persons for all purposes, but the practice remained a problem. There were investigations and prosecutions of law enforcement officials for complicity in trafficking, and one official was convicted.

The country was a source, transit, and destination country for victims of trafficking. Internal trafficking was also a problem. Persons were trafficked to, from, through, and within the country. The International Organization for Migration (IOM) estimated that nearly 200,000 citizens fell victim to trafficking annually, of whom 76 percent were trafficked internally. Many NGOs reported a continued increase in the identification of victims, possibly reflecting greater awareness of the problem. During the year the MIA registered 44 citizen and foreign victims of trafficking. The IOM estimated that, for every case that was investigated, as many as four others went unreported. Individuals were trafficked to the United Arab Emirates, Turkey, Israel, South Korea, Greece, Russia, and Western Europe for purposes of forced labor and sexual exploitation. Men and women were trafficked to and through the country and from the Kyrgyz Republic, Uzbekistan, Tajikistan, Ukraine, and South Asia for purposes of forced labor and sexual exploitation.

Traffickers targeted girls and young women in their teens and twenties for sexual exploitation. According to the MIA, some women were recruited with promises of jobs or marriage abroad. Travel, employment, and modeling agencies often recruited victims through advertisements promising lucrative jobs abroad. Previously trafficked women reportedly recruited new victims. Some trafficking victims appeared to be aware or at least suspected that they were going to work as prostitutes but did not expect to work in slave-like conditions. Many trafficked persons were from Uzbekistan and traveled to their destinations on forged passports obtained abroad.

Trafficking in women remained a problem. Individuals were trafficked to the United Arab Emirates, Turkey, Israel, South Korea, Greece, Russia, and Western Europe for purposes of forced labor and sexual exploitation.

Adolescents in orphanages, regardless of gender, and residents of rural and economically disadvantaged areas were particularly vulnerable to being trafficked.

There was a decrease in the number of men trafficked into the country for forced labor from neighboring countries. The MIA and the IOM attributed the decrease to greater awareness of the problem and lessened demand for construction labor due to the financial crisis. There were credible reports of organized criminal trafficking rings bringing construction laborers to Astana and other cities. Employers and trafficking accomplices usually held trafficked workers' passports. Victims reported traffickers used debt bondage, violence, or threats of violence to compel them to work. NGOs suspected organized crime was involved in all forms of trafficking.

On April 2, the government adopted a new national plan to combat trafficking in persons for 2010-11, assigning responsibilities for combating trafficking to the ministries of justice, internal affairs, foreign affairs, labor and social welfare, education and science, culture, information and sports, the KNB, the National Commission on Family Issues and Gender Policy, and the prosecutor general.

Trafficking is punishable by a maximum seven-year prison term. If a minor is involved, the maximum penalty increases to 10 years' imprisonment. The maximum penalty increases to 10 years' imprisonment if a victim was trafficked abroad and 12 years' if the victim was a minor. The maximum penalty is 15 years' imprisonment for cases involving an organized crime syndicate, the death of a victim, or other "grave consequences" to the victim.

The number of successful prosecutions for trafficking continued to increase. In the first 11 months of the year, police registered 20 new cases of trafficking involving adults and 16 cases of trafficking minors. Twenty-four of these cases reached the courts.

The government cooperated with authorities in both destination and source countries. Embassies assisted victims of trafficking. In the first nine months of 2008, the Ministry of Foreign Affairs assisted in repatriating eight citizens. No information was available on the number of repatriations during the year by year's end.

There was no evidence of a pattern of official complicity with trafficking, although corruption of law enforcement officials, including migration and border officials, contributed to trafficking.

The law provides trafficking victims with temporary resident status to ensure their safe repatriation or participation in trafficking prosecutions. Trafficking victims are not considered illegal immigrants under the law and generally were not deported or otherwise penalized. NGOs working with foreign trafficking victims reported government cooperation in providing administrative support for the repatriation of identified trafficking victims.

The government provided some victim protection and assistance, although significant gaps remained in comparison with the level of assistance that victims required. In the first nine months of the year, the government provided financial assistance to trafficking victims who participated in criminal proceedings. The assistance included security, food, lodging, and medical services. NGOs operated two crisis support centers that provided legal and material assistance and counseling under memoranda of understanding with the government. In some cases, the government provided NGOs with reduced-rate leases and other limited support. In general NGOs reported improved cooperation with government officials in coordinating assistance for trafficking victims.

The MOJ continued to maintain separate national hotlines for trafficking victims to report crimes and to receive information. The government provided training for law enforcement and other government officials to improve their abilities to recognize, investigate, and prosecute instances of trafficking. The MIA continued enrolling migration police and criminal police in comprehensive antitrafficking training at the Study Center for Specialists on Combating Illegal Migration and Human Trafficking.

The MIA conducted spot investigations at hotels, saunas, and employment agencies for trafficking activities. The PGO enforced mandatory licensing for tourist agencies and conducted inspections throughout the year to uncover agencies involved in trafficking.

The government increased funding for trafficking prevention and encouraged media to publish and report on antitrafficking efforts. The government continued to air a series of public service announcements provided by international organizations in Russian and Kazakh. Public and private media were required to distribute the messages.

The Ministry of Education and Science reported that the curriculum of all high schools and colleges included trafficking awareness. According to the ministry, most universities had information and analysis centers that dealt with trafficking awareness, among other topics. As part of the national action plan, a chapter on trafficking in persons was introduced in secondary school curricula.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services or other areas. It requires companies to set aside 3 percent of their jobs for persons with disabilities. International and local observers noted some improvement in the situation regarding the rights of persons with disabilities. Nevertheless, there were reports that persons with disabilities faced difficulty integrating into society and finding employment. The law mandates access to buildings for persons with disabilities. Vice Minister of Labor and Social Protection Assel Nusupova identified the two biggest problems facing persons with disabilities as poor infrastructure and lack of access to education. Persons with disabilities had difficulty accessing public transportation. The government did not make a concerted effort to address these problems.

Citizens with mental disabilities could be committed to state-run institutions without their consent or judicial review. In practice the government committed persons at a young age with permission of their families. Institutions were poorly managed and inadequately funded. There are no regulations regarding the rights of patients in mental hospitals; human rights observers believed this led to mass abuse of patients' rights. NGOs reported orphanages for children with physical and mental disabilities were overcrowded and unsanitary, with insufficient staff to care adequately for children's needs. KIBHR observed that the government provided almost no care for persons with mental disabilities.

The government did not restrict the right of persons with disabilities to vote, and arranged home voting for individuals who could not travel to polling places as a result of their disability. The Ministry of Labor and Social Protection was the primary government agency responsible for protecting the rights of persons with disabilities; the ministries of health and education also assisted in their protection.

*National/Racial/Ethnic Minorities.*—The government continued to discriminate in favor of ethnic Kazakhs in senior government employment. Minorities experienced ethnic prejudice and hostility; encountered incidents of insult, humiliation or other offenses; and were discriminated against in employment or job retention. There were fewer complaints than in previous years of discrimination regarding school enrollment and fewer concerns about the activities of nationalist organizations and nationalist propaganda in the media.

Ethnic Kazakh migrants (oralmans) who returned to the country from abroad experienced domestic discrimination; in some instances the discrimination evolved into conflict. On June 10, a large group of local residents of Mamait village attacked oralman living in the village. Several persons were injured and houses were damaged. A police investigation resulted in the conviction of eight men and the dismissal of the village mayor.

Kazakh is the official state language, although organizations and bodies of local self-administration may officially use Russian on an equal basis with Kazakh. The language law is intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages. By law the ability to speak Kazakh is not required for entry into the civil service, but most government agencies have technically switched to conducting business in Kazakh, which elicited protests from non-Kazakh speakers against language discrimination.

Among other forms of discrimination, critics mentioned a scarcity of representatives of non-Kazakh ethnicities in the government, the fact that only one of the 20 cabinet members is a non-Kazakh, and a reduction in the number of Russian-language schools.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Although there were no official statistics on discrimination or violence based on sexual orientation, there were reports of such discrimination. Representatives of international organizations reported that negative social attitudes towards marginalized groups, including lesbian, gay, bisexual, and transgender (LGBT), impeded these groups' willingness to come forward and consequently hindered their access to HIV/AIDS programs.

LGBT individuals, particularly gay men, were among the most oppressed groups, although the country does not outlaw homosexual conduct. Those whose nontraditional sexual orientation was publicly known risked physical and verbal abuse, pos-

sible loss of work, and unwanted attention from police and authorities. Several LGBT organizations operating in the country reported that government-run HIV clinics sometimes breached confidentiality and reported patients' sexual orientation to their families and employers.

*Other Societal Violence or Discrimination.*—The law prohibits discrimination against persons with HIV and AIDS. Observers reported that cultural stigmas against drug users and other at-risk groups continued to affect general access to information, services, treatment, and care.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right to organize and form unions. During the year, following a widely publicized mining accident in Satpayev and subsequent strike in January 2008, the government launched a pronoun campaign to empower workers to protect their workplace rights. Independent union organizers saw this campaign as a significant change in policy. Nevertheless, organizers reported that the government continued to restrict the right to organize, and most workers were not able to join or form trade unions of their choice. The government exercised considerable influence on organized labor and favored state-affiliated unions over independent unions. At least one-third of the workforce was unionized. The largest trade union association, the Federation of Trade Unions, successor to formerly state-sponsored Soviet-era labor organizations, remained affiliated with the government. The federation united 25 national unions and 13 regional industrial unions. The industrial unions represented workers in a wide range of industries, including oil and gas, construction, textiles, education, and public health. Each union elects its own leader and has a representative on the General Council, which elects the 14-member Executive Committee. The committee runs the federation's day-to-day operations and deals with issues of social and economic protection, labor protection, organization, and international cooperation.

To obtain legal status, a trade union must apply for registration with the MOJ. The registration procedure is broadly similar to that of other membership organizations.

The law prohibits the operation of foreign unions and prohibits the financing of unions by foreign legal entities and citizens, foreign states, and international organizations. Foreign workers have the right to join unions.

Workers are protected by law against antiunion discrimination, but in practice there were violations of this right. The violations ranged from threats of being fired, which would lead to the loss of social benefits, such as subsidized health care, to physical intimidation and assault.

According to media accounts, local administrators tried to prevent the activities of independent trade unions through threats, harassment, and physical intimidation.

On May 15, company managers in Aktau publicly beat two independent labor union activists in the oil company UzenMunaiGas. On August 20, unidentified attackers shot Zhondeu company labor union leader Yklas Shangereyev with a pistol that fires "nonlethal" rounds, which have been known to cause lethal injuries. He was not mortally injured. On August 19, Shangereyev met with KazMunayGas general director Ibrashev about grievances that the labor union had lodged the previous year. Representatives of the independent labor union community unanimously believed the shooting directly resulted from Shangereyev's activism.

In January local authorities acceded to calls from Confederation of Free Trade Unions (CFTU) leader Sergey Belkin to investigate a December 2008 incident in which two masked assailants severely beat CFTU vice president Mukhtar Umbetov in Aktau. As an active participant in many labor disputes, Umbetov began to receive threatening telephone calls in November 2008. As of year's end, authorities had not released their findings.

*b. The Right to Organize and Bargain Collectively.*—The law protects the rights of unions to conduct their activities without interference, and unions were free to recruit new members, conduct meetings, and bargain collectively with employers. The law permits collective bargaining and collective agreements; unions and associations engaged in collective bargaining in practice. During the year the government increased efforts to encourage collective bargaining. As a result the Kazakhstan Federation of Labor Unions reported in September that 95 percent of all unionized enterprises had concluded collective bargaining agreements, a 2 percent increase from the previous year. Activists noted the promising trend and stressed that political pressure was driving the rapid conclusion of agreements.

Union demands unacceptable to management could be presented to a tripartite commission composed of government, employer association, and labor union representatives. The government was supposed to be the neutral broker on the commis-

sions, but there were cases in which it favored the interests of labor unions or employers. The tripartite commission is responsible for developing and signing annual agreements governing most aspects of labor relations. Through this mechanism, labor unions raised the minimal wage for several industries, including mining and metallurgy, during the year. In response to the global financial crisis, labor unions also played a key role in maintaining jobs for workers in industries with declining production demands. Labor union leaders negotiated a deal with the nation's largest steel producer in Karaganda, Arcelor Mittal. Under the agreement workers accepted a 14 percent salary cut and limits on bonuses to prevent layoffs.

The labor law provides for an individual contract between an employer and each employee that sets the employee's wage and outlines the rights and responsibilities of the employee and the employer.

The law provides for the right to strike, but exercising this right is subject to numerous legal limitations. The government maintained a list of industries and enterprises providing essential services where strikes were permitted only under limited conditions. In general workers may strike only if a labor dispute has not been resolved through existing compulsory arbitration procedures. Striking workers must give 15-day advance notice to employers. The law neither sanctions nor prohibits the firing of employees for participation in an illegal strike. In practice there were reports of employers providing arbitrary justifications for firing employees who had attempted to organize strikes. In September the Almaty Electric Car Repair Plant fired Yessenbek Ukteshbayev, who organized a June 30 to July 2 plant-wide strike to demand increased salaries and nationalization of the enterprise.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, except at the sentence of the court or in conditions of a state of emergency or martial law; however, there were reports that such practices occurred. There were reports that some employers abused migrant workers by confiscating their passports or using debt bondage, violence, or threats of violence to compel them to work. The majority of migrant workers came from Kyrgyzstan, Tajikistan, and Uzbekistan and were primarily employed in agriculture and construction. The Ministry of Labor and Social Protection was responsible for dealing with issues of migrant workers.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace. The minimum age for employment is 16 years; children who are between 14 to 16 years of age can perform, with parental permission, light work that does not interfere with their health or education. The law also restricts the length of the workday for employees younger than 18 years old. The government conducted labor inspections to enforce the minimum age for employment, but enforcement was uneven.

The government concluded an agreement with national employer associations that committed them to eradicate the use of forced labor and the worst forms of child labor and to develop alternative employment opportunities for children and their families. The Ministry of Education's 2007-11 Children of Kazakhstan program addressed child labor issues. Nevertheless, NGOs contended that the government's efforts were insufficient to address fully the use of child labor, specifically in cotton production.

The government did not maintain statistics on child labor. NGOs and activists reported child labor occurred routinely in agriculture, especially during harvest season. Children were involved in growing cotton and tobacco. There were no comprehensive national statistics on the use of child labor in cotton and tobacco production, but NGO studies have found that more than 70 percent of the children employed in this work were from migrant families, primarily Uzbek and Kyrgyz. Labor conditions frequently presented a physical health risk, and some children suffered from inadequate rest and nutrition. Many child workers lacked proper clothing to protect them from harmful chemicals used in agriculture and harsh weather conditions. The ILO reported that, in 2008-09, it recorded 900 incidents of children between the ages of seven and 17 years old working in cotton fields. In urban areas the country's increasingly formalized labor market led to a decrease in many forms of child labor. Nevertheless, there were reports of children begging, unloading freight, delivering goods in markets, washing cars, and working at gas stations. There were also reports of children exploited in prostitution and pornography.

The Ministry of Labor is responsible for enforcement of child labor laws and for administrative offenses punishable by fines. The MIA is responsible for investigating criminal offenses. In the first 10 months of the year, the government reported no crimes related to illegal child labor. The government cooperated with



trade unions, employers, and NGOs to raise awareness and promote interagency cooperation in eliminating child labor.

Trafficking in children was a problem. The country did not have an acute problem with child labor, although local and international NGOs active in the country reported that children worked in the seasonal production of cotton and tobacco, primarily in the southern regions. There were no comprehensive national statistics on the use of child labor in cotton and tobacco production, but NGO studies have found that more than 70 percent of the children employed in these fields are from primarily Uzbek and Kyrgyz migrant families. The International Labor Organization (ILO) reported 900 cases of children working in cotton fields in 2008-09. On July 1 to 12, the Committee on the Protection of Children's Rights conducted an annual "12 Days against Child Labor" national information campaign.

*e. Acceptable Conditions of Work.*—The national monthly minimum wage of 13,717 tenge (approximately \$91) did not provide a decent standard of living for a worker and family. It was common for working-class families to have more than one wage earner, and most workers earned above minimum wage in urban areas. For the first time in recent years, the monthly minimum wage exceeded the minimum monthly subsistence level, which averaged 12,700 tenge (approximately \$84) during the first eight months of the year.

The law stipulates that the normal workweek should not exceed 40 hours and limits heavy manual labor or hazardous work to no more than 36 hours a week. The law limits overtime to two hours in a day or one hour a day for heavy manual labor, and requires overtime to be paid at a rate of no less than one-and-a-half times normal wages for hours exceeding the normal workweek. Overtime is prohibited for work in hazardous conditions. The law provides that labor agreements may stipulate the length of working time, holidays, and paid annual leave for each worker.

The Ministry of Labor and Social Protection enforced minimum wages, workhours restrictions, and overtime. Ministry inspectors conducted random inspections of employers. Labor advocates reported that some employers regularly violated these laws.

The law provides for the right to safe and hygienic working conditions, but working and safety conditions in the industrial, agricultural, and construction sectors were often substandard. Workers in factories usually lacked protective clothing and worked in conditions of poor visibility and ventilation.

There were reports of management ignoring regulations concerning occupational health and safety. In the first 11 months of the year, the ministry reported 20,421 inspections and 94,738 violations of occupational health and safety standards and rules. In addition to inspections by the ministry, unions conducted inspections of unionized enterprises and reported their findings to authorities for investigation. The law requires employers to suspend work that could endanger the life or health of workers and to warn workers about any harmful or dangerous work conditions or the possibility of any occupational disease. The law specifically grants workers the right to remove themselves from situations that endanger their health or safety without losing their job. In practice some workers, particularly in the construction industry, were not free to exercise this right without jeopardizing their employment.

During the first 11 months of the year, the government reported 1,811 workplace injuries, compared with 2,184 during the first six months of 2008. The government reported 298 workplace deaths during the first 11 months of the year, marking an increase compared with the 117 deaths reported in the first six months of 2008. According to officials at the Federation of Trade Unions, many of the deaths were due to antiquated equipment, Soviet-era infrastructure, and disregard for safety regulations in the mining and metallurgy sectors.

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## KYRGYZ REPUBLIC

The Kyrgyz Republic's 2007 constitution defines the country as a sovereign, unitary, democratic state based on the rule of law. The country, with a population of approximately 5.4 million, has an elected president, an appointed prime minister and cabinet, and an elected Supreme Council (parliament). According to independent election observers, the July 23 presidential election failed to meet many of the country's international commitments and was marred by significant obstacles for opposition parties, intimidation, voting irregularities, and the use of government resources to benefit specific political interests. Three parties are represented in parliament, with the pro-presidential Ak Jol party holding 71 of 90 seats. Civilian authorities generally maintained effective control over the security forces, although there were isolated cases of serious human rights abuses.

The following human rights problems were reported: restrictions on citizens' right to change their government; arbitrary killing, torture, and abuse by law enforcement officials; impunity; poor prison conditions; arbitrary arrest and detention; lack of judicial independence; pressure on nongovernmental organizations (NGOs) and opposition leaders, including government harassment; pressure on independent media; government detention of assembly organizers; authorities' failure to protect refugees adequately; pervasive corruption; discrimination against women, persons with disabilities, ethnic and religious minorities, and other persons based on sexual orientation or gender identity; child abuse; trafficking in persons; and child labor. Unlike in previous years, there were no reports that the government forcibly returned Uzbek refugees or asylum seekers to Uzbekistan.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Police committed at least one arbitrary killing during the year. On July 4, Ministry of Internal Affairs second lieutenant Shukurbek Nurmatov reportedly argued with freelance journalist Almaz Tashiev at the Jany-Bazar police station in Nookat District. Tashiev, a frequent government critic, was applying for a new passport. According to witnesses, as many as six police officers beat him severely. On July 12, he died as a result of the injuries. The Ministry of Internal Affairs launched an investigation; on July 14, Nurmatov confessed to the crime. Authorities also charged a second officer, Batyrbek uulu Nurgazi, in connection with Tashiev's death. As of year's end, the ministry had fired the Nookat police chief for abuse of power, and Nurmatov and Nurgazi were in pretrial detention.

During the year there were two high-profile deaths that opposition groups claimed were politically motivated murders.

On March 13, former presidential chief of staff Medet Sadyrkulov; the former director of the International Strategic Studies Institute think tank, Sergey Slepchenko; and driver Kubat Sulaimanov were found dead in a burned-out car outside Bishkek. After an investigation, authorities stated that another man, Omurbek Osmonov, fell asleep while driving his car and collided with Sadyrkulov's car, causing it to burst into flames, and then drove away from the scene of the accident. The fire reportedly killed Sadyrkulov, Slepchenko, and Sulaimanov. Opposition member of parliament (MP) Bakyt Beshimov and activists claimed that the accident was staged and that the government had assassinated Sadyrkulov to prevent him from joining the opposition. In May the Alamedin District Court turned down a request by relatives of the victims to reopen the investigation. In June the court found Osmonov guilty of causing the accident and sentenced him to 12 years in prison.

On December 22, according to police, Gennady Pavlyuk, a prominent opposition journalist and government critic, died in the hospital after unknown persons threw him out of a tall building in Almaty, Kazakhstan, with his hands tied behind his back on December 16. Pavlyuk remained in a coma after the attack. Kyrgyz police announced that they would investigate the death jointly with Kazakh police.

On December 9, the Supreme Court ordered the Ministry of Internal Affairs to reopen the investigation into the murder of independent journalist Alisher Saipov. On August 7, the minister of internal affairs had announced the completion of the criminal investigation and sent the findings to the court. In 2007 an unknown gunman shot and killed Saipov, who was known for writing articles critical of the Uzbek government.

During the year the military prosecutor's office convicted soldier Daniel Tuleyev and sentenced him to five years' imprisonment for his participation in the July 2008 beating death of army private Almazbek Sagaliyev.

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

On September 30, authorities found the body of Ruslan Shabatoyev, an MP representing the Social Democratic Party of Kyrgyzstan (SDPK), who disappeared in September 2008. On August 7, the Ministry of Internal Affairs announced the issuance of warrants for suspects in the case. Investigators tied a Kazakh criminal gang and Shabatoyev's commercial dealings to his death. There was no evidence that Shabatoyev's disappearance was politically motivated.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, police and State Committee on National Security (GKNB) forces employed them. At times police beat detainees and prisoners to extract confessions.

Following the arrest and imprisonment of 32 citizens in connection with the October 2008 Nookat protest (see section 1.e.), the Ombudsman's Office established a

commission to investigate allegations of torture and mistreatment of the detainees. In February the commission released a report that documented incidents of Ministry of Internal Affairs and GKNB officers beating detainees, tearing their fingernails, burning their beards, and shaving female detainees' heads. In January the Russian human rights organization Memorial published a report documenting similar abuses. The government took no action to investigate the allegations further or reprimand the officers involved.

In July 2008 the Bishkek newspaper *Tribuna* reported that officials fired seven police officers and opened criminal cases against two others in the Issyk-Kul Oblast for alleged use of torture. No further information was available as of year's end.

The NGO Committee of Soldiers' Mothers reported two registered cases of military hazing during the year, including physical abuse and extortion by noncommissioned officers. Military authorities took steps to deal with the problem, providing psychological support and legal advice to all service members and medical treatment and legal protection to the victims of hazing. The NGO continued to question the quality of the psychological and legal assistance.

*Prison and Detention Center Conditions.*—Prison conditions were poor and included food and medicine shortages, poor health care, and lack of heat and other necessities. Pretrial and temporary detention facilities were particularly overcrowded, and conditions and mistreatment generally were worse than in prisons. Nevertheless, morbidity and mortality rates continued to decline, particularly those resulting from tuberculosis (TB). As of September 1, the prison population was approximately 9,902. Approximately 700 prisoners had TB, of which an estimated 300 carried multi-drug resistant strains. In the first nine months of the year, 74 prisoners died, 30 of them from TB.

On July 18, one prisoner was killed in a large-scale brawl that erupted among detainees in juvenile prison number 14 in Voznesenovka. Authorities transferred four prisoners to the Bishkek pretrial detention center to face charges in connection with the death. On July 20, the Penitentiary Department of the Ministry of Justice dismissed the prison head.

As of September 1, there were approximately 9,900 persons (including approximately 400 women) in prisons whose total capacity the government estimated to be 14,000, although some international organizations believed actual capacity was significantly less. Authorities generally held juveniles separately from adults but occasionally held them with adults in overcrowded temporary detention centers. At times convicted prisoners were held in pretrial detention centers while their cases were being appealed.

The government continued to permit international and domestic human rights observers, including from the Office of Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) and the NGO Penal Reform International, to visit detainees in Justice Ministry prisons and in temporary detention centers. The International Committee of the Red Cross (ICRC) was able to conduct visits in accordance with its standard modalities.

Following up on its 2008 reports of poor living conditions, corruption of prison personnel, drug activity, and excessive use of force by both prison and investigative officials in several prisons, the NGO Citizens Against Corruption worked with the Ministry of Justice's Public Council to provide food and toiletries to prisoners during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, police at times used false charges to arrest persons and solicited bribes in exchange for their release.

*Role of the Police and Security Apparatus.*—Law enforcement responsibilities are divided between the Ministry of Internal Affairs for general crime, the GKNB for state-level crime, and the Prosecutor's Office for both types of crimes. Early in the year, President Bakiyev signed into law measures that empowered the military to intervene in domestic political conflicts and gave the Presidential Security Service law enforcement powers, including authorization to conduct interrogations, intercept communications, and carry out surveillance and other covert activity.

The payment of bribes to avoid investigation or prosecution was a major problem at all levels of law enforcement. The government took steps to address corruption in the police force, including public commitments to fight corruption. Police impunity remained a problem; however, Ministry of Internal Affairs officials were dismissed and prosecuted for various offenses, including corruption, abuse of authority, and police brutality. Unlike in previous years, the ministry's internal investigations unit did not provide statistics on citizen complaints, subsequent investigations, or officers dismissed after criminal convictions during the year, nor did the Ombuds-

man's Office track the number of Ministry of Internal Affairs, GKNB, and Financial Police employees who were subjected to criminal investigation during the year.

*Arrest Procedures and Treatment While in Detention.*—In July 2008 the parliament passed amendments to the criminal procedure code that returned many judicial powers to prosecutors, including the authority to issue search and seizure warrants. The amendments partially reversed a 2007 law that transferred those powers to the courts. Prosecutors have the burden of proof in persuading the judge that a defendant should be detained pending trial. In September 2008 the parliament approved amendments to the code that reduced the period that authorities can hold a detainee before charging him from 72 to 48 hours. The limit was generally enforced in practice. The law requires that investigators notify a detainee's family within 12 hours of detention; however, this requirement often was not observed in practice. There were no reports of incommunicado detentions. The courts have discretion to hold suspects in pretrial detention as long as one year, after which the courts are required to release the suspect.

All persons arrested or charged with crimes have the right to defense counsel at public expense. By law the accused has the right to consult with defense counsel immediately upon arrest, but in practice the first meeting often did not happen until trial. Human rights groups noted that authorities usually denied attorneys to arrested minors, often holding them without parental notification and questioning them without parents or attorneys present, despite laws forbidding these practices. Authorities often intimidated minors into signing confessions.

The law authorizes house arrest for certain categories of suspects. There were also reports that law enforcement officials selectively incarcerated persons suspected of minor crimes while other persons suspected of more serious crimes remained at large. There was a functioning bail system.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the executive branch at times interfered with the judiciary. Lawyers and citizens commonly believed that judges were open to bribes or susceptible to outside pressure. Low salaries for judges remained a contributing factor.

Cases originate in local courts and can move to appeals courts at the municipal or regional level and finally to the Supreme Court. There were separate military courts as well as a separate arbitration court system for economic disputes. Civilians may be tried in a military court if a codefendant is a member of the military. Military court cases can be appealed to a military appellate court and ultimately to the Supreme Court. The Constitutional Court is limited to constitutional questions and cannot intervene with other courts except concerning constitutionality. The court has specific authority to determine the constitutionality of NGO activities, political parties, and religious organizations. Traditional elders' courts handle property and family law matters and low-level crime. Elders' courts are under the supervision of the Prosecutor's Office but do not receive close oversight because of their location in remote regions. Their decisions can be appealed to the corresponding regional court. Military courts and elders' courts follow the same rules and procedures as general courts.

The president nominates and the parliament approves justices to the Constitutional Court; justices to the Supreme Court are nominated by the National Council for Judicial Affairs (NCJA) and approved by the president and the parliament. The president can propose the dismissal of supreme and constitutional court justices, subject to a two-thirds vote by the parliament. The NCJA nominates and the president appoints local judges, whom the president may relieve of duty at the NCJA's request.

*Trial Procedures.*—State prosecutors bring cases before courts, and judges direct criminal proceedings. A criminal case is conducted by one judge; appellate cases, by three judges. If a court renders a case indeterminable, it returns the case to the investigative bodies for further investigation, and suspects may remain under detention. As of year's end, the government had not implemented 2007 changes to the law on trials allowing for juries. The law provides for transparency of court proceedings. Trials are generally open to the public, unless state secrets or the privacy of defendants are involved; however, the verdict is publicly announced, even in closed proceedings.

The law provides for defendants' rights, including the presumption of innocence. In practice, however, such rights were not always respected. The judicial system continued to follow customs and practices that provided no presumption of innocence, and the focus of pretrial investigation was to collect evidence sufficient to show guilt. The law provides for an unlimited number of visits between an attorney and a client during a trial. Official permission for such visits is required and was usually granted. Indigent defendants were provided attorneys at public expense, and

defendants could refuse attorney support and defend themselves. The law permits defendants and counsel the right to access all evidence the prosecutor gathers, attend all proceedings, question witnesses, and present evidence; however, these rights were not always respected in practice. Witnesses generally have to present their testimony in court, but under certain circumstances testimony can be presented at trial via audio or video recording. Defendants and prosecutors have the right to appeal the court's decision.

On May 14, the Supreme Court reduced the sentences of 32 ethnic Uzbek and Kyrgyz Muslims whom the Osh regional court convicted in November 2008 for participating in an October 2008 protest in Nookat. The protest followed local authorities' decision to ban a public gathering for the Muslim holiday Orozo Ait (Eid al-Fitr). The sentences, which originally ranged from nine to 20 years' imprisonment, were reduced to a range of five to 17 years. Court authorities had denied access to observers and family members of the accused until the third day of the five-day trial, and human rights activists claimed that the defendants had inadequate legal counsel and had been subjected to torture and other mistreatment (see section 1.c.).

Amanbek Karypkulov, the fifth and final official charged with involvement in the 2002 shooting deaths of protesters in Aksy, died before his case could go to trial.

*Political Prisoners and Detainees.*—At year's end, according to human rights groups, at least three high-profile members of the opposition faced trial under what the groups claimed were trumped-up charges: Green Party leader Erkin Bulekbayev (see section 3); former foreign minister Alikbek Djekshenkulov, accused of murdering a Turkish businessman; and former State Agency director Ishenbai Kadyrbekov, charged with abuse of power and detained for almost 12 months. As of November 1, authorities had released Djekshenkulov and Kadyrbekov for medical reasons.

Human rights groups also claimed that the detention and particularly severe charges facing 19 protesters in Balykchy were politically motivated (see section 2.b.).

In December 2008 authorities indefinitely suspended the trials of two 2007 protest participants, Bolotbek Suyerkulov and Bakytbek Saptayakov, and the two remained free at year's end.

Prisoners arrested in connection with political activity received the same protections as other prisoners.

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent and impartial judiciary in civil matters. As with criminal matters, citizens believed the civil judicial system was subject to influence from the outside, including by the government. Local courts address civil, criminal, economic, administrative, and other cases. The Supreme Court is the highest judicial authority.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the government at times violated these prohibitions. The law requires approval from the prosecutor general for wiretaps, home searches, mail interception, and similar acts, including in cases relating to national security.

On July 24, President Bakiyev signed into law an amendment to the Law on Defense and Armed Forces authorizing the military to confiscate private property for the purpose of state security. There were no reports of such confiscations during the year.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, although the government at times restricted these rights in practice, especially through withdrawal of broadcasting rights and reportedly through intimidation of journalists. A June 2008 law, yet to be fully implemented, places significant restrictions on television and radio broadcast companies and established new Kyrgyz-language and local content requirements. Human rights activists asserted that the law is unconstitutional because it conflicts with constitutional rights to freedom of speech and access to information. The law also maintains state control over the Kyrgyz National Television and Radio Broadcasting Corporation (NTRK) rather than creating a national public interest broadcaster as the president had previously pledged to do.

Individuals could criticize the government publicly or privately without reprisal, but the government attempted to impede criticism, including by monitoring political meetings.

There were 40 to 50 regularly printed newspapers and magazines, eight of which were state owned with varying degrees of independence. The independent printing press run by the nongovernmental Media Support Center surpassed the state printing house, Uchkun, as the leading newspaper publisher in the country. Approxi-

mately 50 state-owned and private television and radio stations operated in the country, with two television stations, both state-owned, broadcasting nationwide. Government newspaper, television, and radio outlets continued to receive state subsidies. In previous years the government was the primary source of scarce advertising funding; however, as advertising from private sources continued to increase, the government's ability to use advertising funding to influence the media diminished.

The Ministry of Justice requires all media to register and receive ministry approval in order to operate. The registration process nominally takes one month but in practice often took much longer. It included checks on the background of each media outlet's owner and its source of financing, including financing by international donor organizations.

Foreign media operated freely. The law prohibits foreign ownership of domestic media; however, there was a small degree of foreign ownership of media through local partners. Russian-language television stations dominated coverage and local ratings, and a Commonwealth of Independent States television network increased its television and radio broadcasts throughout the country. A number of Russia-based media outlets operated freely in the country; the government treated them as domestic media. Although several broadcast media companies have applied for new licenses and frequency assignments, the government has not approved any requests for new media outlets since 2006.

There were continued reports of media harassment. The NGO Committee to Protect Journalists, along with other media watchdog organizations and human rights groups, reported several incidents in which unknown attackers harassed journalists associated with opposition news media.

On March 3, four unknown attackers assaulted political opposition journalist Syrgak Abdylbaev near his office in Bishkek, stabbing him more than 30 times and breaking his hands, forearms, and ribs. Abdylbaev claimed he was assaulted because of his reporting, and his editor said Abdylbaev faced ongoing death threats. As of year's end, no arrests had been made in the case, and Abdylbaev sought political asylum in a European country.

On June 6, unknown attackers beat Abduvahab Moniev, a political reporter for the opposition newspaper *Achyk Sayasat*, on a Bishkek street corner. Moniev's editor contended that the beating was the result of the journalist's articles criticizing the government. As of year's end, no arrests had been made.

On November 2, unknown attackers beat Osh Shamy deputy editor Kubanych Zholdoshev, who suffered a concussion and broken ribs. Osh Shamy editor Turgunbai Aldakulov reportedly said the assailants warned Zholdoshev to stop his journalistic activities, which included stories about corruption in the Osh educational system. As of year's end, no arrests had been made.

In October 2008 the NTRK ended transmissions of programming from the Radio Free Europe/Radio Liberty (RFE/RL) Kyrgyz service, known as Radio Azattyk. The state-run broadcasting corporation also cancelled its showing of two TV Azattyk news programs. The NTRK stated that the cancellations were due to RFE/RL's failure to meet its financial obligations, but it also criticized RFE/RL programs for favoring the political opposition, and it did not restore transmission after RFE/RL showed that it had paid all outstanding bills. At year's end, NTRK channels were not carrying Azattyk productions, but some private FM channels continued to broadcast Radio Azattyk. In December 2008 the NTRK also withdrew broadcasting rights for the BBC's Kyrgyz-language service. BBC broadcasts resumed weeks later, but the government had not officially renewed its contract.

Although the law prohibits censorship, a few independent journalists reportedly faced government pressure over press coverage critical of authorities, were denied access to public meetings, and were not given information that the government freely provided to state-run outlets.

Libel remains a criminal offense punishable by up to three years in prison. Unlike in previous years, there were no reports of officials using libel lawsuits against opposition newspapers to suppress criticism.

Following the November 2008 death from natural causes of Erkin Kojogeldiyev, editor in chief of *Jany Zaman*, Osh City deputy mayor Ainura Shayikulova dropped her August 2008 libel suit against the newspaper.

At year's end, former *De Fakto* editor in chief Cholpon Orozobekova remained in Switzerland with her family. In 2008 police conducted at least two raids on the newspaper's offices, confiscating documents and five computers, and the government sued *De Fakto* for publishing allegedly false statements accusing the head of the tax commission of corruption. The libel case against the paper was closed when *De Fakto* ceased publication in August 2008.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including e-mail, online forums, and blogs. According to 2008 International Telecommunication Union statistics, approximately 16 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events. Religious higher educational institutions must follow strict reporting policies. The GKNB did not demand confidential documents about student enrollment at Bishkek's Protestant United Theological Seminary as it did in 2008.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for limited freedom of assembly, and the government generally respected this right in practice, although authorities imposed restrictions. An August 2008 law prohibits protesters from gathering near government entities, including the parliament, presidential residences, schools, military establishments, motorways, and gas pipelines. The law also requires that organizers apply for permits at least 12 days prior to an event, thus making any spontaneous demonstrations illegal.

On July 23, during the presidential election, several hundred citizens of Balykchy gathered spontaneously outside the district election commission headquarters to protest alleged voting irregularities. Although the protesters did not engage in violence, police officers in riot gear dispersed the crowd with stun grenades. Police detained two SDPK parliamentarians along with 19 other protesters. Authorities later released the MPs and charged the remaining protesters with attempting to overthrow the government, organizing mass disorder, and obstructing the work of the government. The protesters claimed authorities beat and mistreated them and threatened them with rape during their detention. Authorities did not investigate the protesters' claims. On December 25, a judge found all of the protesters guilty and sentenced four of them to four years' imprisonment. The remainder received suspended sentences of one to three years and two years of probation.

On July 30, four prominent human rights activists staged a protest in front of the presidential headquarters by chaining themselves to the fence and holding signs demanding the release of the protesters detained in Balykchy and Bishkek following the presidential election. The Pervomayski District Court judge fined the activists 1,500 soms (approximately \$34) each for disobeying police and staging an unauthorized protest. The activists claimed they had applied for permission to protest but it was denied.

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right, although at times it used law enforcement agencies to intimidate organizations. NGOs, labor unions, political parties, and cultural associations must register with the Ministry of Justice. NGOs are required to have at least three members, and all other organizations at least 10 members. The Ministry of Justice did not refuse to register any domestic NGOs during the year; however, it continued to prevent the Norwegian Helsinki Commission from operating in the country (see section 5). The law prohibits foreign-funded political parties and NGOs, including their representative offices and branches, from pursuing political goals.

The government continued its ban on four organizations—Hizb ut-Tahrir (HT), the Islamic Party of Turkestan, the Organization for Freeing Eastern Turkestan, and the Eastern Turkestan Islamic Party—it deemed to be extremist due to alleged ties to international terrorist organizations, and it banned Jamaat al-Jihad al-Islamias during the year for the same reason. Arrests and prosecution of persons accused of possessing and distributing HT literature continued. Although most arrests of alleged extremists in the past occurred in the south and involved ethnic Uzbeks, media reports tracked a marked increase in detentions of ethnic Kyrgyz for HT-related activity in the north. The majority of those arrested were charged with distribution of literature inciting ethnic, racial, or religious hatred.

*c. Freedom of Religion.*—The law provides for freedom of religion. The government generally respected this right in practice, although there were some restrictions, particularly regarding the activities of conservative Islamic groups that the government considered extremist and a threat to the country. The constitution provides for the separation of state and religion. Islam is the most widely practiced faith. The government did not officially support any religion; however, a 2006 decree recognized Islam and Russian Orthodoxy as "traditional religions." The government also recognizes two Muslim holy days (Kurman Ait, or Eid al-Adha, and Orozo Ait, or Eid al-Fitr) and Orthodox Christmas as national holidays.

On January 12, the president signed the Law on Freedom of Religion and Religious Organizations, establishing numerous restrictions on the activities of religious groups. The law increases the membership threshold for registration of a religious organization from 10 to 200 individuals, which excludes many smaller faith groups, and prohibits any activities by unregistered religious groups. The law also bans proselytizing, religious conversion, and private religious education at any level. After the law was implemented, some religious groups reported they were unable to register congregations of fewer than 200 members, and some groups reported that the new law banned them from distributing literature outside their churches.

The State Agency for Religious Affairs (SARA) is responsible for promoting religious tolerance, protecting freedom of conscience, and overseeing laws on religion. Under the law all religious organizations, including religious schools, are required to register with SARA, and each congregation must register separately. The government has not registered the Hare Krishna or the Church of Jesus Christ of Latter-day Saints, and it suspended registration of the Universal Church in 2003 for non-compliance with government regulations. SARA may deny registration if a religious organization does not comply with the law or is considered a threat to national security, social stability, interethnic and interdenominational harmony, public order, health, or morality. Once approved, the organization must register with the Ministry of Justice, which gives the organization legal status and allows it to own property and conclude contracts. Groups may appeal a SARA decision to the courts.

After enactment of the new religion law, foreign missionaries faced increasing difficulties with the government. According to Kanybek Osmonaliev, the director of the State Commission on Religious Affairs, from January to October the government expelled nine foreign missionaries. In addition authorities refused at least two religious licenses and denied four visa extensions.

The law forbids the teaching of religion (or atheism) in public schools and in unregistered religious schools (the latter as a result of the 2009 religion law), but a 2006 decree allows the teaching of “the history of world religions” and “religion in general.” On February 19, the minister of education signed a decree that prohibited students from wearing clothing indicative of religious preference. Muslim families protested the prohibition on religious attire, which included the hijab (headscarf). In response the minister amended the decree to “recommend against” religious clothing. However, there were continued reports that girls in the south, particularly in Jalalabad Oblast, were prevented from attending school or dropped out because of restrictions on wearing the headscarf.

The new religion law requires that censors examine religious material before permitting its importation or distribution, and it prohibits the sharing of religious literature in public locations, with the exception of worship facilities or bookstores.

*Societal Abuses and Discrimination.*—In 2008 the Christian Web site Forum 18, documented numerous instances in which Muslim groups denied Protestants, Bahá'ís, Jehovah's Witnesses, and Hare Krishna access to community cemeteries to bury relatives. The Muslim Council, the Muftiate, issued a decree in 2007 forbidding the burial of non-Muslims in Muslim cemeteries. In 2008 meetings with SARA resulted in the establishment of separate cemeteries for nontraditional religious groups.

There were no reports of anti-Semitic acts. Approximately 1,500 Jews lived in the country.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law on internal migration provides for freedom of movement. The government generally respected the right in practice, and citizens were able to move within the country with relative ease. However, certain policies continued to restrict internal migration, resettlement, and travel abroad. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other organizations to provide some protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern. The law requires all persons to possess an official residence registration to work and live in a particular area of the country. Applicants for residence registration must file a request with the local police and be able to prove they have a place to live in the area. Individuals who do not register, or who are registered in a town other than where they live, can be denied access to subsidized health care or schooling.

The law on migration prohibits travel abroad by citizens who have or had access to information classified as state secrets.

The law neither provides for nor prohibits forced exile; there were no reports that the government employed it.



As in past years, several Kyrgyz citizens sought asylum in foreign countries, claiming they would face repression or legal persecution if they returned to the country. In September the leader of the SDPK, Bakyt Beshimov, left the country, allegedly because of persistent threats and an attempt against his life. Beshimov was the campaign manager for SDPK leader Almazbek Atambayev, the principal challenger to President Bakiyev in the presidential election. Some journalists were also living in self-imposed exile during the year (see section 2.a.).

*Protection of Refugees.*—The country is party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. Its laws provide for the granting of asylum or refugee status, and the government has established a system for doing so. During the year the government cooperated with the UNHCR and other organizations to provide some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion; however, there was at least one case during the year in which authorities failed to protect a refugee and his son from being kidnapped and taken across an international border. Also, according to the UNHCR, Uighurs remained at risk of deportation or extradition, particularly if they were involved with political and religious activities in China or if the Chinese government requested their return. The government did not grant refugee status or asylum to refugees from Uzbekistan (with the exception of those joining family members), Afghanistan, Iran, Iraq, or Syria during the year, nor did it adequately protect such individuals. There were approximately 400 such asylum seekers and refugees from Uzbekistan and Afghanistan who obtained registration and support exclusively from the UNHCR. The government also continued to deny Chechen refugees official refugee status, but it granted them asylum seeker status, which provided some legal protection. There were continued reports of Uzbek refugees hiding in the country for fear of retaliation by the Uzbek government.

According to the State Committee for Migration and Employment (SCME), there were approximately 247 refugees and 200 asylum seekers in the country as of September 1. Refugees were primarily from Afghanistan (228), along with several from Syria, Iran, and North Korea. Among the asylum seekers officially registered with the government were three from Afghanistan, 77 from Uzbekistan, 115 from Russia, and five from other countries.

*Stateless Persons.*—A UNHCR-funded survey local NGOs conducted in late 2008 exposed a problem of statelessness in the country. In the report researchers identified nearly 13,000 individuals living in the three southern oblasts (provinces) who lacked any official documentation confirming their citizenship. The report listed several categories of stateless persons: Uzbek women who married Kyrgyz citizens but never received Kyrgyz citizenship (many such women allowed their Uzbek passports to expire and current regulations obstructed their efforts to gain Kyrgyz citizenship); individuals who continued to hold outdated USSR passports because they failed to exchange their passports or never applied for citizenship; children born to one or both parents who are stateless; and children of migrant workers who had renounced their Kyrgyz citizenship in the hope of becoming Russian citizens. Stateless persons were denied state social benefits and prevented from working in legitimate jobs. The UNHCR estimated the total number of stateless persons in the country (both de jure and de facto) at approximately 20,000.

In September the UNHCR announced a plan of action for dealing with the problem of statelessness, including increasing public awareness and working with the government to improve the process for applying for citizenship.

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

The law provides citizens with the right to change their government peacefully, although this right remained restricted in practice. Under the constitution, the president can veto any legislative act (although the parliament may override a veto), dismiss members of the government, nominate constitutional and supreme court judges proposed by the NCJA, appoint and dismiss regional governors and the heads of local administrations, control defense and security bodies, and direct foreign policy. The president has immunity from prosecution after leaving office.

*Elections and Political Participation.*—On July 23, 79 percent of the 2.3 million registered voters cast presidential ballots, resulting in the reelection of Kurmanbek Bakiyev for a second presidential term. According to the Central Election Commission, Bakiyev received 76 percent of the vote, and the opposition front-runner, Almaz Atambayev of the United People's Movement (UPM), received approximately 8 percent. Local and international independent observers concluded that the election

failed to meet many of the country's international commitments and was marred by widespread ballot box stuffing, multiple voting, and misuse of government resources. On the day of the election and for several weeks afterward, citizens gathered and marched to protest the election results and electoral fraud. Authorities arrested hundreds of protesters and fined or sentenced them to short prison terms.

Opposition political parties operated with limited freedom and faced significant government interference by the government in the form of questionable charges against their leaders and restrictions on freedom of assembly. Ak Jol, which President Bakiyev leads, was the dominant political party and held a clear majority in parliament. Following the 2007 parliamentary elections, the election commission certified that three parties passed the thresholds to gain seats in the parliament: Ak Jol with 71 seats, the SDPK with 11 seats, and the Party of Communists of Kyrgyzstan with eight seats.

There continued to be cases of government harassment of members of the political opposition.

On January 14, the prosecutor general opened three criminal cases against former minister of defense and opposition leader Ismail Isakov relating to alleged misuse of Ministry of Defense funds, negligence relating to government property, and the illegal privatization of an apartment. Opposition leaders and human rights activists asserted that these charges were baseless. As of year's end, the prosecutor general had not detained Isakov and the investigation continued.

On March 9, authorities arrested former foreign minister and opposition leader Alikbek Jekshenkulov for abuse of power during his tenure in government and suspected involvement in the 2007 murder of a Turkish businessman in Talas. A forensic examination by the ministries of justice and internal affairs established that the bullet found at the murder scene was fired from a pistol that Jekshenkulov owned. Opposition leaders asserted that both charges were fabricated. On August 17, Jekshenkulov was released from the pretrial detention center and admitted to a Bishkek hospital for medical treatment. As of year's end, no trial date had been set.

On April 27 and 28, police arrested Green Party leader Erkin Bulekbaev, along with civic activists Sapar Argynbaev and Ulan Ryskulov, following the April 26 interethnic clashes against Kurds in Petrovka village. Authorities charged the three opposition figures with inciting civil unrest, which rights activists claimed was a spurious charge. The trial was ongoing at year's end.

There were no legal restrictions on the participation of women in politics; however, traditional attitudes at times hindered women from holding high office or playing active roles in political life. Twenty-five women representing three political parties occupied seats in parliament in accordance with the government quota system. The parliamentary election code mandates that every fourth person on a party list be a woman. Women held several high-level government posts, including vice prime minister, minister of labor and social development, chief justices of the Constitutional Court and Supreme Court, chair of the social fund, and chair of the State Committee on Migration and Employment Issues.

There were 18 members of six minorities represented in the 90-seat parliament. Russians and Uzbeks, the two largest ethnic minority groups, remained underrepresented in government positions. Members of minority groups held senior posts, including an ethnic Russian as prime minister and an ethnic Tatar as minister of energy, industry, and fuel.

#### *Section 4. Official Corruption and Government Transparency*

Corruption remained endemic at all levels of society. The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials engaged in corrupt practices with impunity. During the year the government took limited steps to address the problem, including arrests of government officials on corruption charges.

In the first six months of the year, the National Anticorruption Agency had received 362 written complaints and telephone calls regarding corruption among government officials, 61 involving alleged unlawful actions of law enforcement officials and 59 related to the judiciary bodies. From January to July, according to the Ministry of Internal Affairs, citizens filed 605 corruption-related cases against government officials. The corruption cases alleging malfeasance, illegal examinations by state agencies, mismanagement of government funds and unauthorized procurement, embezzlement, illegal commercial activity, and bribery.

On March 11, President Bakiyev approved a National Anticorruption Strategy for 2009-11; however, as of year's end, the government had not taken any actions to implement the strategy. In 2007 the NGO Kyrgyz Parliamentarians Against Corruption analyzed the implementation of the previous strategy, originally adopted in

2005, and noted lack of compliance of domestic legislation with international standards.

On May 16, the Ministry of Internal Affairs, working with the National Anticorruption Agency and the Prosecutor General's Office, arrested Stalbek Momunaliev, a Leninski District police investigator, in Bishkek. Momunaliev allegedly had demanded a bribe of 8,000 soms (approximately \$180) from a foreign citizen. At year's end, Momunaliev was awaiting trial for criminal charges related to abuse of power.

During the year officials completed a criminal investigation on the judge of the Moscow District Court of the Chui Oblast and referred the case to the Jaiyl District Court for prosecution. In May 2008 GKNB officers detained the judge for accepting a bribe of 98,545 soms (approximately \$2,200). At year's end, the court continued to review the case.

In November 2008 the Commissioner of the National Anticorruption Agency reported violations of admissions processes at Kyrgyz National University and Jalal-Abad State University. The minister of education dismissed the rectors, and they were charged with abuse of power and forgery. One rector was found not guilty and restored to his position; the other's case was pending at year's end.

In December 2008 the Prosecutor General's Office arrested a judge of the Naryn Oblast Court, Askat Askaliyev, for accepting a 10,000 soms (approximately \$200) bribe from a defendant. The Naryn Oblast Court found Askaliyev guilty and sentenced him to five years' imprisonment.

The law gives persons the right to request information from the government, and the government generally complied with such requests; however, the process is generally slow, rendering the service less useful. In addition, there have been isolated cases in which the government ignored requests, as in the case of rights activist Maxim Kuleshov, who demanded that the election commission publish the results of the 2007 parliamentary elections but never received a response.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The government restricted or hampered to some degree the activities of domestic and international organizations that reported on human rights in the country. Law enforcement agencies and unknown persons continued to harass and pressure human rights activists. Although the government regularly met with local and international organizations to discuss their activities and acknowledge their concerns, it failed to respond to some international organizations' questions, requests, or reports.

The government permitted visits by representatives of the UN and other organizations, including the OSCE, the ICRC, and the International Organization for Migration (IOM), but it severely restricted the activities of the Norwegian Helsinki Committee (NHC). In October 2008 law enforcement officials at Bishkek International Airport denied NHC representative Ivar Dale entrance into the country, telling him he was prohibited for 10 years. The NHC subsequently closed its office in Bishkek. In addition, the election commission denied accreditation to the NHC's election observers one day before the July 23 presidential election.

A February 2008 decree disbanded the State Commission on Human Rights and transferred its authority to the Office of the Ombudsman. The ombudsman acts as an independent advocate for human rights on behalf of private citizens and NGOs and has authority to recommend cases to courts for review. The Ombudsman's Office actively advocated for individual rights. Office representatives stated that, during the first nine months of the year, they received 917 individual and 3,871 group complaints lodged by a total of 6,981 citizens and that in some cases the office's advocacy had been effective in reversing court verdicts against complainants.

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

The law prohibits discrimination based on race, gender, disability, language, or social status; however, rights activists claimed authorities failed to apprehend or punish perpetrators of crimes of discrimination during the year.

*Women.*—Rape, including spousal rape, is illegal; however, the government failed to enforce the law effectively. Activists continued to note a growing number of rape cases, although this may have been due to increased reporting of attacks. NGOs claimed that rape cases were dramatically underreported and were rarely brought to court. No statistics relating to the number of cases or convictions during the year were available. Experts noted that defendants often used bribery to curtail rape investigations.

The law specifically prohibits domestic violence and spousal abuse; however, violence against women remained a problem. According to a 2008 UN Women's Development Fund poll, 80 percent of respondents stated there was physical violence

against women in the home. According to the Ministry of Internal Affairs, police responded to almost 10,000 cases of family conflict annually and nearly 15 percent of crimes committed during family conflicts result in death or serious injury. Many crimes against women were not reported due to psychological pressure, cultural traditions, and apathy among law enforcement officials. Furthermore, there were reports of spouses retaliating against women who reported abuse. Penalties for domestic violence ranged from fines to 15 years' imprisonment (if abuse resulted in death). There were 300 reported crimes committed against women in 2007, the latest year for which crime statistics were available, and the majority of those cases were sent to court.

Several local NGOs provided services for victims of domestic violence, including legal, medical, and psychological assistance, a crisis hotline, shelters, and prevention programs. Organizations assisting battered women also lobbied to streamline the legal process for obtaining protection orders. The government provided offices for the Sezim Shelter for victims of domestic abuse and paid its bills.

Although prohibited by law, the traditional practice of kidnapping women and girls for forced marriage continued in rural areas. There was no reliable data confirming the extent of the problem. Cultural traditions discouraged victims from going to the authorities. Reportedly, some victims go to the local police and obtain protective orders, but the orders are often poorly enforced.

Prostitution is not a crime, although the operation of brothels, pimping, and recruiting persons into prostitution are illegal, with penalties of up to five years' imprisonment. Prostitution was prevalent throughout the country. The NGO Tais-Plus continued to defend the rights, such as the right to health care, of those in prostitution.

The law prohibits sexual harassment; however, according to an expert at the local NGO Shans, it was widespread, especially in private sector workplaces and among university students, but was rarely reported or prosecuted. Penalties range from fines of up to 68,000 soms (approximately \$1,500) to imprisonment for up to three years.

National health regulations require that family planning counseling and services are readily available through a range of health professionals, including not only obstetricians and gynecologists, but also family doctors, paramedics, and nurse-midwives. Citizens—couples and individuals—are free to decide the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. At the primary health-care level, contraceptives are provided to all women upon request, regardless of ability to pay, and the country's Essential Drug List (a list of drugs and other medical items that all government medical clinics should have in supply and available to patients) includes different types of contraceptives. National health protocols require that women be offered postpartum care and counseling on methods and services related to family planning. The government offers special programs to meet the needs of vulnerable target groups, such as adolescents, internally displaced persons, new urban migrants, persons in prostitution, and the very poor. No information was available relating to gender differences in diagnosis or access to treatment for sexually transmitted infections.

In August 2008 the president signed a law providing for equal rights for men and women. According to the presidential press service, the "document establishes state guarantees in terms of providing equal rights and opportunities for persons of various sexes in political, social, economic, cultural, and other fields...and aims to protect men and women against discrimination on the basis of sex." Women have the same rights as men, including under family law, property law, and in the judicial system, although discrimination against women persisted in practice. According to an expert from the NGO Women's Educational Coalition for Equal Rights, Development, and Peace, women from Muslim families had no property rights and were subject to discrimination when applying for jobs or entering educational institutions. The National Council on the Issues of Family, Women, and Gender Development, which reports to the president, is responsible for women's issues.

Average wages for women were substantially less than for men. Women made up the majority of pensioners, a group particularly vulnerable to deteriorating economic conditions. In the countryside, traditional attitudes toward women limited them to the roles of wife and mother and curtailed educational opportunities. Data from NGOs working on women's issues indicated that women were less healthy, more abused, less able to work outside the home, and less able to determine independently the disposition of their earnings than men. According to the UN Development Fund for Women and domestic NGOs, women did not face discrimination in access to credit or owning businesses.

In November 2008 then prime minister Igor Chudinov initiated an annual government-sponsored media campaign to combat violence against women. According to NGOs, the campaign helped to coordinate the efforts of groups combating violence against women and give them a greater voice.

*Children.*—According to Articles 19 and 20 of the children's code, every child born in the country has the right to receive a birth certificate, local registration, and citizenship; however, some children were stateless (see section 2.d.).

The law provides for compulsory and free education for the first nine years of schooling, or until age 14; secondary education is free and universal until age 17. However, financial constraints prevented the government from providing free basic education for all students, and the system of residence registration restricted access to social services, including education, for certain children, such as refugees, migrants, and noncitizens. The law carries penalties for parents who do not send their children to school or who obstruct their attendance. This law was only sporadically enforced, particularly in rural areas. Families who kept children in public schools often had to pay burdensome and illegal administrative fees. The government continued to fund two programs that provide school supplies and textbooks to low-income children and children with mental or physical disabilities. Legally, all textbooks should be free of charge, but the government was unable to provide them to all students.

The government provided health care for children; however, refugee, migrant, noncitizen, and internally displaced children had problems accessing health care due to the system of residence registration.

Child abuse—including beatings, child labor, and commercial sexual exploitation of boys and girls—continued to be a problem. In addition, gang-related child-on-child violence in schools was a growing trend.

Although illegal, the practice of bride kidnapping continued, and many underage abductions during the year were likely not reported. Children who are 16 and 17 may legally marry with the consent of local authorities, but marriage before age 16 is prohibited under all circumstances. The government did not have a program to address the problem of child marriage; instead, local authorities handled reports of its occurrence on a case-by-case basis.

As in previous years, there were numerous reports of child abandonment due to parents' lack of resources, and large numbers of children lived in institutions, in foster care, or on the streets. Approximately 80 percent of street children were internal migrants. Street children had difficulty accessing educational and medical services. Police detained street children and either sent them home (if an address was known) or to a rehabilitation center or orphanage. The Rehabilitation Center for Street Children in Bishkek, maintained by the Ministry of Internal Affairs, continued to lack sufficient food, clothes, and medicine and remained in poor condition. In 2007 it provided rehabilitation assistance to approximately 400 children and sheltered 70, according to The UN Children's Fund (UNICEF). In 2008 the IOM, with foreign government funding and SCME assistance, renovated the Rehabilitation Center for Children in Osh, staffed it with personnel from an IOM-trained NGO, Ulybka, and stocked it with food and supplies. According to Ulybka employees, from January through September more than 500 children received shelter, rehabilitation, and psychological counseling; 253 of the children were found to have been victims of child labor or sexual exploitation.

State orphanages and foster homes lacked resources and often were unable to provide proper care. Some older children were transferred to mental health care facilities even when they did not exhibit mental health problems. According to the Social and Gender Issues Department within the presidency, the number of children in state shelters continued to grow, with the total number in the 39 state shelters estimated at 5,390 at the end of 2008. Of these children, 20 percent were orphans.

*Trafficking in Persons.*—The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. Trafficking remained a persistent problem, and victims alleged that government officials facilitated it or were complicit in it. However, the government continued to make significant efforts to address trafficking, including improved assistance to victims.

The country was a source, country of transit, and—to a lesser degree—a destination for trafficked persons. Internal trafficking for labor and sexual exploitation also occurred, generally from poor rural areas to larger cities, such as Bishkek in the north and Osh in the south. There were no reliable data on the number of persons trafficked. International organizations and NGOs reportedly provided assistance to 68 victims of trafficking from January through August.

Most trafficking cases were reported after the agricultural labor season ended and forced laborers from the country wanted to return home from Kazakhstan, the Russian Federation, the United Arab Emirates (UAE), and South Korea. Women, especially from impoverished southern areas, were trafficked for sexual exploitation to Kazakhstan, Russia, the UAE, and Turkey. The trafficking of children for the purposes of commercial sexual exploitation and labor also remained a problem. In 2008 the IOM reported that approximately 4,000 Kyrgyz women and girls were sold abroad each year, at least 10 percent of them under the age of 18. The IOM estimated that it assisted more than twice as many victims from the southern provinces of Jalalabad and Osh than from the north, where unemployment rates were lower.

Sex traffickers were often persons who previously operated local prostitution networks but also included organized crime rings that used former trafficking victims as recruiters. Relatives or close family friends were also reportedly used to recruit trafficking victims. In some cases, traffickers provided an escort, usually an older woman, to accompany victims and facilitate border crossings into countries such as the UAE. In 2008 a trend emerged involving the traffickers' use of "collateral," in which traffickers forced a victim who sought to quit to leave a relative, usually a child, in the trafficker's possession as a "hostage" until a suitable labor replacement was found, essentially forcing victims to assist traffickers in recruiting other victims. Labor trafficking was much less organized and often involved self-employed recruiters, who simply loaded persons onto buses and transported them to the country for work on farms or to foreign labor recruitment firms.

Trafficking in persons, including organizing illegal migration and human smuggling, is a criminal offense punishable by up to 20 years in prison. Other provisions of the criminal code used to prosecute traffickers included laws against kidnapping, recruiting persons for exploitation, coercion into prostitution, rape, and deprivation of freedom. The maximum prison sentence under these laws is 15 years.

The government's enforcement efforts appeared to have limited effect in protecting victims of trafficking or bringing traffickers to justice. According to the IOM, eight defendants were prosecuted and six convicted during the year for trafficking; no information was available about the sentences they received. Endemic corruption impeded the government's efforts to curb trafficking. Victims reported that local police, immigration, and airport security personnel often cooperated with highly organized trafficking operations. Observers believed that some government authorities facilitated or were otherwise complicit in trafficking activities. The government agencies responsible for combating trafficking in persons, according to a September 2008 decree, are the GKNB; the Committee for Migration and Employment; the ministries of internal affairs, foreign affairs, education and science, health, and labor and social development; the State Agency on Physical Culture, Sports, Youth Affairs, and Child Protection; and the State Border Service.

As part of the National Action Plan against Human Trafficking, the State Committee for Migration and Employment shared information with the IOM and its local implementers and jointly sponsored programs to combat trafficking, including in labor migrant assistance centers in Russia. In addition the Ministry of Internal Affairs and the Border Service cooperated closely with the IOM to identify victims of trafficking; however, some victims and NGOs alleged that Border Service and Ministry of Internal Affairs officials were complicit in trafficking or received bribes to assist traffickers.

The law protects trafficking victims from prosecution if they cooperate with an investigation and may also in some cases offer temporary or permanent residence status. Some trafficking victims cooperated with investigations, but many feared retaliation from traffickers. There were no reports during the year of the government penalizing victims who did not cooperate with trafficking investigations. According to the SCME, government agencies assisted in the repatriation of 134 Kyrgyz victims of trafficking during the year.

According to several NGOs, the government did not directly assist trafficking victims, including those repatriated, with special services or care facilities; however, the government supported NGOs by providing them with office space, space for two shelters (one in Bishkek and one in Osh), and free advertising in government-owned media outlets. The SCME continued to provide consultations through its hotline and in person, and the country's embassies abroad assisted victims of trafficking by issuing new authentic travel documents to replace the false documents the victims had used to exit the country.

Law enforcement organs increasingly referred trafficking victims to IOM-sponsored shelters. After an earthquake, the Osh trafficking victims shelter opened a new facility in November 2008 with building space provided by the government and refurbishment paid for with grants from the IOM and the Norwegian government.

The newly renovated Rehabilitation Center for Children in Osh provided shelter to child victims of trafficking and labor exploitation.

The government actively participated in and helped implement antitrafficking programs. With financial and practical assistance from international and nongovernmental organizations, the government supported a countrywide information campaign and trained law enforcement and foreign affairs officials on trafficking awareness. Central and local governments worked with approximately 36 domestic NGOs that operated within the IOM-managed antitrafficking network. Numerous articles in government and independent media publicized the dangers of working abroad, and posters on public transport raised public awareness of the problem.

The Department of State's annual Trafficking in Persons Report can be found at <http://www.state.gov/j/tip>.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities, but in practice such persons faced discrimination in employment, education, access to health care, and the provision of other state services. The law mandates access to buildings for persons with disabilities and requires access to public transportation and parking, it authorizes subsidies to make mass media available to persons with hearing or visual disabilities, and free plots of land for the construction of a home; however, the government generally did not ensure that these provisions of the law were implemented. In addition persons with disabilities often had difficulty finding employment because of negative societal attitudes and high unemployment among the general population.

The lack of resources made it difficult for persons with disabilities to receive adequate education. Although children with disabilities have the right to an education, Gulbara Nurdavletova of the Association of Parents of Children with Disabilities stated that most were denied entry into schools. Parents sometimes established special educational centers for their children, but they did not receive government assistance.

Serious problems continued within psychiatric hospitals. The government did not provide basic needs such as food, water, clothing, heating, and health care, and facilities were often overcrowded. Inadequate funding played a critical factor. In 2008 a parliamentary commission reported violations of patients' rights in a number of mental hospitals, mainly due to lack of funding.

Authorities usually placed children with mental disabilities in psychiatric hospitals rather than integrating them with other children. Other patients were also committed involuntarily, including children without mental disabilities who were too old to remain in orphanages. The Youth Human Rights Group monitored the protection of children's rights in institutions for children with mental and physical disabilities. The group noted gross violations by staff at several institutions, including depriving young patients of sufficient nourishment and physically abusing them.

The Office of the Prosecutor General is responsible for protecting the rights of psychiatric patients and persons with disabilities. According to local NGO lawyers, the members of the prosecutor's office had no training and little knowledge of the protection of these rights and were ineffective in assisting citizens with disabilities. Most judges lacked the experience and training to determine whether persons should be referred to psychiatric hospitals, and the practice of institutionalizing individuals against their will continued.

*National/Racial/Ethnic Minorities.*—Minorities alleged discrimination in hiring, promotion, and housing, but no official reports were registered with local authorities.

In previous years there were reports of isolated incidents of discrimination against ethnic Kurds. On April 26, an estimated 300 ethnic Kyrgyz and Russian residents of Petrovka village in the Chui Oblast protested the presence of Kurds, damaging Kurdish residents' houses and vehicles. The riot erupted as a result of perceived inaction by the authorities in arresting a 22-year-old Kurd accused of raping a four-year-old Russian girl. Riot police ended the violence and detained 80 persons. Authorities released all but three detainees, representatives of the opposition UPM and Green Parties, who voiced support for the Kyrgyz and Russian villagers and against local authorities (see section 3). The Kyrgyz and Russian villagers demanded that the local administration expel Kurdish families from Petrovka. While some families left the village voluntarily, most Kurds remained without further incident during the remainder of the year. On August 27, a district court convicted the Kurdish suspect and sentenced him to 20 years in prison.

The law designates Kyrgyz as the state language and Russian as an official language, and it provides for preservation and equal and free development of minority languages. Non-Kyrgyz-speaking citizens alleged that a ceiling precluded promotion beyond a certain level in government service. They also alleged that unfair language

examinations disqualified some candidates for office. A government initiative to increase official use of Kyrgyz further raised concerns among non-Kyrgyz ethnic groups about possible discrimination.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There is no law against homosexuality; however, according to Human Rights Watch and a local NGO, lesbian, gay, bisexual, and transgender (LGBT) individuals faced severe oppression. Persons whose nontraditional sexual orientation was publicly known risked physical and verbal abuse, possible loss of work, and unwanted attention from police and authorities. Inmates and officials often openly victimized incarcerated gay men. Forced marriages for lesbian and bisexual women also occurred. According to an October 2008 Human Rights Watch report, the government failed to protect the rights of LGBT individuals.

A single NGO supported advocacy campaigns, conducted training, organized festivals, and operated a community center and shelter in support of LGBT individuals.

*Other Societal Violence or Discrimination.*—On October 7, during the Inter-Parliamentarian Conference in Bishkek, local human rights organizations and government officials formally recognized that persons with HIV/AIDS in the country faced societal discrimination. At the same time, Minister of Health Marat Mambetov announced that the government had developed a program to educate local communities about acceptance of persons with HIV/AIDS in their neighborhoods.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law permits citizens to form and join trade unions; however, many restrictions exist. The Federation of Trade Unions (FTU), with an unconfirmed membership of 200,000 workers, or 9 percent of the workforce, remained the only umbrella trade union in the country. Unions were not required to belong to the FTU, and there were several smaller unaffiliated unions. One of the largest of these was the Union of Entrepreneurs and Small Business Workers, with a claimed membership of approximately 60,000.

The law grants the right to strike, but the conditions required to receive formal approval made the procedure difficult and complicated. The law does not prohibit retaliation against strikers. The law on government service prohibits government employees from striking, but the prohibition does not apply to teachers, medical professionals, or members of the armed forces.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the government protected this right in practice most of the time.

The law recognizes the right of unions to organize and bargain collectively, and trade unions exercised this right on behalf of their members.

There are no special laws or exemptions from regular labor laws in the free economic zones (FEZs) that function as export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred, especially involving foreign laborers in agriculture. Unlike in previous years, there were no reports by the NGO Mental Health and Society during the year that psychiatric hospital patients were forced to work or provide domestic service for doctors and local farmers.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides for the protection of children from economic exploitation and from work that poses a danger to their health or development; however, child labor remained a widespread problem. The minimum legal age for basic employment is 16, except for work considered by the government to be “light,” such as selling newspapers. In addition, children as young as 14 years old may work with the permission of a parent or guardian. The law prohibits the employment of persons under 18 at night, underground, or in difficult or dangerous conditions, including the metal, oil, and gas industries; mining and prospecting; the food industry; entertainment; and machine building. Children who are 14 or 15 may work up to five hours a day; children who are 16 to 18 years old may work up to seven hours a day. These laws also apply to children with disabilities.

According to a study conducted in 2007 by the National Statistical Committee and the International Labor Organization (ILO), 450,000 children, or 30.7 percent of all children between the ages of five and 17, worked. The study found that 95 percent of child laborers were employed as unpaid family workers, primarily in family businesses and agriculture. Child labor was also noted in the following sectors: tobacco, cotton, rice, cattle breeding, coal mining, construction, brick making, car washing, shoe cleaning, and retail sales of tobacco and alcohol. According to NGO reports, child



labor continued to be particularly prevalent in the south. During the fall some schools cancelled classes and sent children to pick cotton. During the summer children were involved in tobacco production, often in extreme heat and under hazardous conditions. Some schools required children to harvest tobacco planted on school grounds, with the income going directly to the schools. The Agricultural Workers Union estimated that 125,000 children in the south were involved in child labor and that approximately 15,000 children worked in tobacco fields.

Internal trafficking of children for the purposes of commercial sexual exploitation and forced labor remained a problem. A 2008 ILO-funded study found an increase in the employment of trafficked children to sell and distribute illicit drugs.

Reports from ECPAT International and other international organizations indicated that police arrested street and working children and forced them to give up their earnings in exchange for being released.

The Prosecutor General's Office and the State Labor Inspectorate are responsible for enforcing employers' compliance with the labor code. During the year inspectors conducted spot checks of child labor law compliance, but these were infrequent and ineffective. During the first six months of 2008, the Prosecutor General's Office conducted 52 checks, resulting in 16 written notifications, 33 demands for immediate action, 142 warnings, and four disciplinary actions against five individuals. Since many children worked for their families or were self-employed, it was difficult for the government to determine whether work complied with the labor code. Government enforcement efforts also suffered from a lack of resources. Although employers found violating the labor code could be charged with financial or criminal penalties, punishment was usually minimal.

The government supported several social programs to prevent the engagement of children in exploitative child labor.

*e. Acceptable Conditions of Work.*—There was no minimum wage. The government used a nominal national minimum monthly wage of 340 soms (approximately \$7.71) for administrative purposes, such as determining fines imposed by the courts; the amount would not provide a decent standard of living for a worker and family. Employers generally paid somewhat higher wages.

The standard workweek is 40 hours, usually within a five-day week. For state-owned industries, there is a mandated 24-hour rest period in the workweek. According to the labor code, overtime work cannot exceed four hours per day or 20 hours per week and must be compensated with compensatory leave or with premium pay of between 150 and 200 percent of the hourly wage. These provisions were mainly enforced at large companies and organizations with strong trade unions. Small, informal firms had no union representation.

Safety and health conditions in factories were poor. The law establishes occupational health and safety standards, but the government generally did not enforce them. The State Labor Inspectorate is responsible for protecting workers and carrying out inspections for all types of labor problems, but its activities were limited, and business compliance was uneven. The FTU and other trade unions are empowered to enforce all labor laws. Workers in all industries have the right to remove themselves from dangerous workplaces without jeopardizing their employment, and workers exercised this right in practice.

Unregistered foreign workers in the country could not exercise the same rights as registered workers.

Government licensing rules place strict requirements on companies recruiting Kyrgyz citizens to work abroad, and companies must be licensed by the SCME before they can recruit. The government regularly published a list of licensed and vetted firms. Recruiters are required to monitor employer compliance with employment terms and the working conditions of labor migrants while a work contract is in effect. Recruiters are also required to provide workers with their employment contract prior to their departure. The government also took steps to streamline labor migration by adopting a program on the regulation of migration processes and collaborating with the governments of Russia, South Korea, and Kazakhstan to improve the protection of rights of Kyrgyz labor migrants working abroad. The SCME had representatives in several Russian cities to assist Kyrgyz labor migrants who sometimes encountered discrimination, poor working conditions, or violence. In March 2008 the SCME, with the support of the IOM and the Swedish Development Agency, opened an information center for potential labor migrants in Osh to advise migrants about the risks of labor trafficking, inform them of their legal rights, and provide them with the names of reputable labor management firms previously vetted by the SCME.

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## MALDIVES

The Republic of Maldives is a multiparty democracy with a population of approximately 390,000. In August 2008 parliament ratified a new constitution that provided for the first multiparty presidential elections. In October 2008 Mohamed Nasheed became the country's first directly elected president in relatively free and fair elections. The constitution establishes a bill of rights and mandates a strict separation of powers among all the branches of government. On May 9, the country held its first multiparty parliamentary elections. The ruling Maldivian Democratic Party won 26 out of the 77 seats in the Majlis (parliament); 28 seats went to the main opposition party, former president Maumoon Gayoom's Dhivehi Raggiyithunge Party (DRP); and the remaining seats went to independent candidates and smaller members of the coalition government and opposition. Election observers from the British Commonwealth, Sri Lanka-based diplomatic missions, and local organizations such as Transparency Maldives reported the elections were relatively free and fair, with minor voting irregularities. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens and upheld civil liberties. Its human rights record continued to improve from the previous year, although some issues remained, including abuse of detainees by security forces, the unequal treatment of women, and restrictions on religious freedom and workers' rights.

## RESPECT FOR HUMAN RIGHTS

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

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

The Maldivian Detainee Network (MDN) reported that on March 20, Ahmed Shiyam, who was serving a 25-year sentence at Maafushi prison for drug-related offences, died in detention. Prison medical officials initially declared that Shiyam died of a drug overdose; however, doctors at the local hospital were unable to determine cause of death. Shiyam's death remained under investigation at year's end.

In 2008 authorities charged police corporal Ahmed Shah with assault in connection with the 2007 death of Hussain Salah near the police base of Atoluvehi. Salah had been arrested on drug charges, and police claimed that he had been released; however, the Human Rights Commission of Maldives (HRCM) concluded there was insufficient evidence to try Shah and the case was being treated as a suspected custodial death. On November 15, the court acquitted Shah of the charges and stated that there was insufficient evidence to convict him.

*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, although there were reports of mistreatment of persons by security forces.

On September 22, several detainees at Maafushi jail reported to the local media and the HRCM that members of the Emergency Support Group (ESG), a team of special security forces tasked with maintaining order in the prison, indiscriminately attacked detainees on September 21. Twelve detainees were reportedly injured. The Department of Penitentiary and Rehabilitation Services' (DPRS) investigation on the incident continued at year's end.

In February the HRCM released its annual report, which included an investigation into alleged September 2008 abuse of a detainee at Maafushi jail. The HRCM determined that five officers of the ESG were responsible. The HRCM stated that it was examining how to obtain financial compensation for the detainee from DPRS and was not aware of any action taken against the ESG.

The law permits flogging as a form of punishment. In July local and international media reported authorities sentenced an estimated 180 persons to public flogging for engaging in extramarital affairs. An 18-year-old woman was flogged in public on July 5 and received 100 lashes. Reports indicated that the woman fainted and was taken to the hospital for medical treatment. Abdulla Mohamed, head of the country's Criminal Court, told the local media that flogging was meant as a deterrent and not designed to cause injury, as regulations prohibit those carrying out the sentences from raising their arms above their shoulders.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. Officials did not hold pretrial detainees separately from convicted

prisoners. Independent inspections by MDN and HRCM officials revealed that security forces regularly mistreated and abused detainees.

During the year there was a hunger strike, several riots, and repeated jailbreaks in the country's largest prison, Maafushi.

On January 10, detainees went on a hunger strike reportedly due to the government's failure to deliver on promises made in December 2008 to address overcrowding, poor ventilation and lighting, inadequate medical treatment, and to institute rehabilitation and parole programs for prisoners. An estimated 85 percent of detainees were arrested for drug-related offenses.

In February the HRCM cited the absence of rehabilitation programs and the intermingling of experienced criminals with those convicted of petty crimes as the major causes of problems in Maafushi prison. The report also revealed the use of homemade weapons and drug trafficking by detainees. The HRCM cited lack of security for both prisoners and security officers as a serious concern. The HRCM's recommendations included giving full authority and responsibility over the prison to the DPRS for more effective site management; immediate establishment of a Prison's Act; and revision of prison regulations to conform to international best practices. There was no reported response to the HRCM's recommendations by year's end.

In April detainees set fire to various areas of the Maafushi prison, causing damage to the health center, a workshop, and a desalination plant. Also on April 5, a prison raid in Maafushi revealed homemade bombs, literature about Islamic extremism, knives, mobile phones, syringes, trowels, and maps of the prison.

In July dozens of detainees demanding their release, vandalized cells and sawed through cell bars. Mohamed Rasheed, director general of the DPRS, acknowledged to the local media that the riots were a result of lax security and noted the need to improve human resources and renovate prison facilities.

In October there was another riot in the Maafushi prison, and detainees set fire to various parts of the facility, resulting in severe damage. Following the riot several detainees were transferred to a military center in Addu atoll, under the management of the Maldives National Defense Force (MNDF). The detainees were to be kept at the center until the Maafushi prison was repaired. The HRCM expressed concern over military personnel's supervision of detainees and recommended placing management under the DPRS. At year's end the detainees were still at the temporary facility.

There were repeated jailbreaks at the Maafushi prison, as well as at Feydhoofoolhu jail, which had initially been constructed for use by the Education Ministry for extracurricular school activities. Since 2006 Feydhoofoolhu acted as a minimum-security jail and accommodated the detainees in excess of the capacity of the Maafushi prison.

The government generally permitted regular prison visits by the HRCM, the MDN, and the International Committee of the Red Cross (ICRC). In its annual report, the ICRC stated that it visited detainees regularly and shared its findings and recommendations confidentially with authorities. The government also allowed access to prisons to the jail oversight committee, composed of judges and members of parliament. The oversight committee has a mandate to conduct quarterly visits and submit a report directly to the president. These reports were not available to the public.

During the year the government continued construction of a new jail for 200 persons adjacent to Maafushi prison; the new facility was designed to relieve overcrowding at Maafushi.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The constitution also provides compensation for those detained without legal justification.

*Role of the Police and Security Apparatus.*—The MNDF is responsible for external security. The MNDF also handled disaster relief operations and national emergencies. The director of the MNDF reports to the minister of defense. The president is commander-in-chief of the MNDF. In 2008 the Majlis enacted a new Armed Forces Act that establishes legal parameters for the MNDF's role.

The Maldives Police Service (MPS), which is responsible for internal security, public safety, and law and order, was separated from MNDF in 2004 and is subordinate to the Ministry of Home Affairs. The president appoints the MPS commissioner, who reports to the minister of home affairs.

The prosecutor general referred cases to the appropriate court based on the results of police investigations. The authorities generally kept the details of a case confidential until they were confident that the charges were likely to be upheld. Three units under the Special Operations and Security Department of the MPS re-

placed the Star Force, formerly an elite unit of the MPS. These units are the Special Weapons and Tactic Team (SWAT), the Industrial and Personal Security Unit, and the Riot Police. The Police Integrity Commission (PIC), established in 2006 to investigate allegations of police corruption and impunity, was inactive, holding no hearings in 2008. In July President Nasheed appointed five new commissioners to the PIC. The commission was the primary mechanism available to investigate security force abuses. On August 31, the PIC reported that it investigated 16 cases involving police conduct in public places and internal police disputes. The PIC determined that the cases did not merit criminal prosecution, and none of the cases were forwarded to the prosecutor general. The PIC instead made recommendations to the MPS and the Ministry of Home Affairs to establish a detention facility that meets international standards.

*Arrest Procedures and Treatment While in Detention.*—The law of arrest requires that no person be arrested unless the arresting officer observed the offence, had reasonable evidence, or had an arrest warrant issued by the court. The constitution provides for an arrestee to be informed of the reason for arrest within 24 hours and provides for the right to hire a lawyer. The law also requires that a detainee be informed of the right to a lawyer at the time of arrest. Prisoners had the right to a ruling on bail within 36 hours; however, reports indicated that bail procedures were not publicized adequately, explained, or implemented consistently. Under the new constitution, a lawyer may be appointed by the court in serious criminal cases if the accused cannot afford one. According to the Attorney General (AG), police normally informed the arrestee's family of the arrest within 24 hours, although the law does not require that police inform the family of the grounds for the arrest. Authorities generally permitted detainees to have counsel present during police questioning.

The law provides for investigative detention. Once a person is detained, the arresting officer must present evidence to a court within 48 hours to justify continued detention. Based on the evidence presented, the prosecutor general has the authority to determine whether charges will be made. If law enforcement authorities are unable to present sufficient evidence within 48 hours, the prisoner is eligible for release. Judges have the authority to extend detention upon receiving an arresting officer's petition citing factors such as the detainee's previous criminal record, the status of the investigation, the type of offense in question, and whether the detainee would pose a threat if released.

*e. Denial of Fair Public Trial.*—The law/constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

In 2008 the government established an interim Supreme Court. The five-member court, appointed by the former president, is independent from the executive. It hears appeals from the High Court and considers constitutional matters brought directly before it. The seven-member Judicial Services Commission (JSC) is responsible for judicial appointments, examining the conduct of judges, and any dismissals of judges and recommended candidates for judgeships to the president. The legislation setting up the commission permits the body to accept or veto presidential appointments to judgeships. The JSC did not publicize deliberations or make recommendations on the hiring, dismissal, or discipline of judges during the year.

There are three lower courts: one for civil matters, one for criminal cases, and one for family and juvenile cases. The High Court handles a wide range of cases, including politically sensitive ones. The president's judicial advisory council, led by the chief justice, reviews all appealed court rulings.

*Trial Procedures.*—The law provides that an accused person is presumed innocent until proven guilty. There were no jury trials. Most trials were public and were conducted by judges and magistrates, some of whom were trained in Islamic, civil, or criminal law. Regulations rather than laws govern trial procedures. The prosecution collects all evidence and presents it to a judge, who has the discretion to choose what evidence he will share with the defense. Judges question the concerned parties and attempt to establish the facts of a case. An accused person has the right to defend himself or herself "in accordance with Shari'a. During a trial the accused may call witnesses and has the right to be represented by a lawyer. Under the constitution a lawyer may be appointed by the court in serious criminal cases if the accused cannot afford one. The judiciary generally enforced these rights.

Under the constitution, the prosecutor general is a separate and independent body subject only to general policy directives by the AG on the conduct of criminal proceedings. The Prosecutor General's mandate includes supervising prosecution of all criminal cases and determining whether charges should be pursued based on evidence presented by investigating authorities.

Civil law was subordinate to Shari'a, which was applied in situations not covered by civil law, as well as in family matters such as divorce and adultery. Courts adju-

dicating matrimonial and criminal cases generally did not allow legal counsel in court because, according to local interpretation of Shari'a, all answers and submissions should come directly from the parties involved. However, the High Court allows legal counsel in all cases, including those in which the right to counsel was denied in a lower court. Those convicted had the right to appeal. Under the country's Islamic practice, the testimony of two women equals that of one man in matters involving Shari'a, such as adultery, finance, and inheritance. In other cases the testimony of men and women was equivalent.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees. The government declared that it no longer has political prisoners. Local nongovernmental organizations (NGOs) confirmed that no one had been arrested solely for their political beliefs since the inauguration of the new government. As for previous political prisoners, government observers claimed that they have been released after the charges against them were withdrawn or found to be without merit. Amnesty International had stated that "it continues to be concerned about the detention of Prisoners of Conscience who have been imprisoned solely for their political beliefs" but did not cite specific cases or provide a number of political detainees.

In November 2008 the High Court overturned a verdict against journalist Abdullah Saeed who had been sentenced to life imprisonment for drug possession in 2005. He was released on November 30, 2008.

*Civil Judicial Procedures and Remedies.*—A civil court addressed noncriminal cases. On February 3, Mariyam Manike filed a civil suit against the ministry of defense over the killing of her son, Evan Naseem, in 2003 by eight former security officers at Maafushi prison. The case continued at year's end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits security officials from opening or reading wireless messages, letters, telegrams, or monitoring telephone conversations, "except as expressly provided by law." In practice the government generally respected privacy rights. Security forces may open the mail of private citizens and monitor telephone conversations if authorized to do so by a court during a criminal investigation.

The constitution provides that residential premises and dwellings should be inviolable and can be entered without consent of the resident only under exigent circumstances or under the authorization of the court.

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

*a. Freedom of Speech and Press.*—The constitution guarantees freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press in most cases. However, the law limits a citizen's right to freedom of expression in order to protect the "basic tenets of Islam" and prohibits inciting citizens against the government.

There are almost 200 independent newspapers and periodicals; however, government ministers owned several of the daily publications.

In July Reporters Without Borders (RSF) issued a statement urging authorities and political parties to respect freedom of the press. The statement stemmed from a series of incidents including attacks against opposition and state media journalists by supporters of political parties and after the head of a privately owned television station reportedly was summoned and warned by the information department for programs it considered objectionable. Tourism, Arts, and Culture Minister Mohamed Thoyyib assured RSF that the government had no intention of arresting journalists, taking them to court, or withdrawing licenses.

There were no legal prohibitions on the import of foreign publications except for those containing pornography or material otherwise deemed objectionable to Islamic values.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail, which was widely available in the capital and increasingly present in outlying atolls. There were, however, reports of the Ministry of Islamic Affairs blocking certain Web sites.

In March the Telecommunications Authority of Maldives announced that nine Web sites with anti-Islamic and pornographic content were blocked at the request of the Ministry of Islamic Affairs. One of the Web sites posted an audio clip of a Ministry of Islamic Affairs official reportedly threatening an imam.

In December 2008 the Ministry of Islamic Affairs blocked a Dhivehi and English-language Web site promoting Christianity.

*Academic Freedom and Cultural Events.*—The law prohibits public statements contrary to government policy or to the government’s interpretation of Islam. In response to the law, there were credible reports that academics practiced self-censorship.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for “freedom of peaceful assembly without prior permission of the State,” and the government generally respected this in practice. Although freedom of assembly was also included in the previous constitution, it came with the clause “in a manner that does not contravene the law.”

*Freedom of Association.*—The constitution provides for freedom of association; however, the government imposed some limits on this freedom in practice. The government registered clubs and other private associations only if they did not contravene Islamic or civil law.

*c. Freedom of Religion.*—The law does not provide for freedom of religion and significantly restricts it. The constitution designates Sunni Islam as the official state religion. The law prohibits the practice of any religion other than Islam and confers citizenship exclusively on Muslims. The government allowed non-Muslim residents to practice their religion only if they did so privately and did not encourage citizens to participate. The president, members of the People’s Majlis, and cabinet members were required to be Sunni Muslims.

There were no places of worship for adherents of other religions. The government prohibited the import of icons and religious statues, but it generally permitted the import of religious literature, such as Bibles, for personal use. It also prohibited non-Muslim clergy and missionaries from proselytizing and conducting public worship services. Conversion of a Muslim to another faith is a violation of the government’s interpretation of Shari’a and may result in punishment, including the loss of the convert’s citizenship; however, there were no known cases of such loss of citizenship.

The Ministry of Islamic Affairs mandates Islamic instruction in schools, funds the salaries of religious instructors, and certifies imams, who are responsible for presenting government-approved sermons. No one may publicly discuss Islam unless invited to do so by the government, and imams could not prepare sermons without government authorization. The minister of Islamic Affairs had the sole authority to grant preaching licenses.

*Societal Abuses and Discrimination.*—There were some reports of discrimination against various Islamic subgroups.

In April the Ministry of Islamic Affairs requested that police investigate independent prayer groups reportedly led by unlicensed preachers. During the year the ministry received criticism for its restrictions on issuing preaching licenses. The ministry cited the threat of religious extremism as the reason behind the investigations. In January, however, the ministry banned a religious group from practicing Friday prayers separately at the Dharumavantha mosque, stating that doing so violated the Protection of Religious Unity Act, which promotes religious homogeneity.

There were no known Jewish citizens or residents, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Employers often housed foreign workers at their worksites.

The law allows for banishment to a remote atoll as a punishment, but this was seldom practiced.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, and the government had not established a system for providing protection to refugees or persons seeking asylum. The government has cooperated in the past with the Office of the UN High Commissioner for Refugees; however, asylum issues did not arise during the year. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

*Elections and Political Participation.*—On May 9, the country held its first multiparty parliamentary elections. These were the first elections under the new government. The previous Majlis was composed of 50 members, including eight presidential appointees. The new Majlis, however, had 77 seats, all directly elected for five-year terms. The ruling MDP won 26 out of 77 contested seats. The main opposition party, former president Maumoon Abdul Gayoom's DRP, won 28 seats. The People's Alliance (PA) won seven seats, which gave the opposition DRP-PA alliance a total of 35 seats, four short of a majority. The smaller members of the coalition government won three seats while the remaining 13 seats went to independent candidates. Election turnout was 79 percent of registered voters. Although there were sporadic confrontations and reports of electoral irregularities, including allegations of bribery and intimidation, election observer groups, such as Transparency Maldives and the British Commonwealth, reported the elections to be generally free and fair.

Under the constitution local elections were scheduled for July 1; however, members of parliament were unable to agree on a decentralization model, thus delaying the elections. At year's end, no date had been set for local elections. A limited number of women held prominent positions in government. The minister of health and family, the deputy minister of education, and five members of parliament were women.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. In 2008 the government established an independent Anti-Corruption Commission (ACC) to investigate corruption charges involving senior government officials.

Approximately 150 cases from the previous board were transferred to the new commission. In May President Nasheed established a Presidential Commission to investigate allegations of widespread corruption by high-level officials from the previous government, including former president Gayoom. The government created the commission after the ACC and independent audit reports revealed cronyism and misappropriation of state funds. The commission has authority to summon, interrogate, and take statements that may be used as evidence in court. At year's end the investigation continued.

There are no laws that provide for access to government information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

The HRCM was fully functional, with Ahmed Saleem serving as president.

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

The law provides for the equality of all citizens, but there is no specific provision to prohibit discrimination based on race, gender, religion, disability, or social status. Women traditionally were disadvantaged, particularly in the application of Shari'a in matters such as divorce, education, inheritance, and testimony in legal proceedings.

*Women.*—A man can be convicted of rape in the absence of a confession only if there are two male witnesses or four female witnesses willing to testify.

In March Mazeena Jameel, Permanent Secretary of the Ministry of Health and Family, stated that out of 10 rape cases reported, only two led to convictions, partly due to the difficulty of proving rape.

Under the law, spousal rape is not a crime.

There are no laws in force regarding domestic violence against women or workplace harassment, nor were there firm data on the extent of violence against women.

In 2008 the Ministry of Gender and Family released data showing an increase in the reported cases of violence against women, although NGOs believed that most cases remained unreported. Several reasons were cited for the silence on the issue, including fear of reprisals from abusers, losing custody of children, lack of economic

independence, insensitivity of police when dealing with victims, absence of regulation in media concerning the privacy of the victim, dealing with the stigma attached to being a victim, and low conviction rates.

In May an official of the Ministry of Health and Family, formerly the Ministry of Gender and Family, stated to the local media that access to justice was one of the biggest obstacles to eliminating gender-based violence.

The 2006 Ministry of Gender and Family study on women's health and life experiences noted that one in three women between the ages of 15 and 49 years reported some form of physical or sexual violence at least once in their lives. One in five women between the ages of 15 and 49 years reported physical or sexual violence by a partner, and one in nine reported experiencing severe violence. One in six women in Male and one in eight countrywide reported experiencing childhood sexual abuse under the age of 15 years. Of those women between the ages of 15 and 49 years who had ever been pregnant, 6 percent reported having been physically or sexually abused during pregnancy. A survey reported that many respondents perceived women to be subordinate to men, and that men had used Islam to justify restrictions and violence against women.

In cases of harassment involving physical assault, violators can be prosecuted under the "indecent assault" laws.

Although women traditionally played a subordinate role in society, they participated in public life. Women constituted approximately 40 percent of government employees. The literacy rate for women was approximately 98 percent. In 2007 the government appointed the first female judges. The minimum age of marriage for women was 18 years, but marriages at an earlier age were common.

Under Islamic practice husbands may divorce their wives more easily than vice versa, absent mutual agreement to divorce. Shari'a also governs estate inheritance, granting male heirs twice the share of female heirs. Women who worked for wages received pay equal to that of men in the same positions. According to an HRCM report published in August, despite provisions in the constitution and the 2008 Employment Act, there were no policies in place that provide equal opportunities for women's employment. The absence of childcare facilities made it difficult for women to remain employed after they had children; it was socially unacceptable for women to stay on resort islands for extended periods, which discouraged women from working at tourist resorts. The HRCM also received reports that some employers discouraged women from marriage or pregnancy, as it could result in termination or demotion.

On March 8, the government established an Rf 10 million (\$780,000) Fund for the Economic Development of Women. Provided by the Asian Development Bank as part loan and part grant, the project is designed to encourage economic independence by assisting women in setting up small- and medium-sized enterprises.

On May 5, the government in partnership with the UN launched a two-year program to deal with gender-based violence. The program's objectives include raising awareness of gender-based violence, developing social support and counseling, providing women with legal options, and advising them on economic opportunities that would empower them to leave abusive relationships. The action plan was to involve various stakeholders in government including police, health ministry, religious leaders, and the judiciary to ensure cooperation and accountability.

There are Family and Children's Centers (FCSC) on every atoll in the country. They are intended to help streamline the process of reporting abuse against women and children. The centers had a shortage of trained staff and faced legal challenges such as collecting evidence about abuse cases.

Prostitution was illegal but occurred on a small scale. In March and June, police arrested 10 foreign residents at a guesthouse in Maafannu and a health center in Hanveiru on charges of prostitution.

A 2006 NGO report concerning the UN Convention on the Elimination of Discrimination Against Women stated that many women reported sexual harassment in public places and at their places of employment.

Couples and individuals had the right to decide freely and responsibly the number, spacing, and timing of children, and to have the information and means to do so free from discrimination, correction, and violence. Access to information on contraception and skilled attendance at delivery and in postpartum care was widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

*Children.*—Citizenship is derived through one's parents (*jus sanguinis*). A child born of a citizen father or mother, regardless of the child's place of birth, can derive citizenship.

Education is not compulsory, but there was universal access to free primary education. In many instances parents curtailed education for girls after the seventh



grade by not allowing them to leave their home island for another island with a secondary school.

Government policy provides for equal access to educational and health programs for both male and female children.

The law sought to protect children from physical and psychological abuse, including at the hands of teachers or parents. The Ministry of Health and Family has the authority to enforce the law and receives strong popular support. The ministry reported child abuse, including sexual abuse. On November 4, parliament passed the Child Sex Abuse Act which codified child sex offenses for the first time and outlined sentences of up to 25 years for those convicted. There were reports that although the courts had the power to detain perpetrators, most were released pending sentencing and were allowed to return to the communities of their victims.

In March the FCSC stated that the biggest challenge they faced in their efforts to protect children's rights was the release of pedophiles into the communities of their victims.

According to statistics from the MPS, from January to March, 34 cases of child sexual abuse were reported, and 23 pedophiles were arrested. An MPS officer attributed the increase to growing public awareness.

In February police arrested Hussain Fazeel after they discovered pornographic images of children on his computer and videos of him having sex with approximately 35 underage boys, some of them reportedly as young as 10 years of age. On November 25, Fazeel was sentenced to six years imprisonment for 39 counts of child sexual abuse.

In March police arrested Ahmed Ibrahim for sexual abuse of two underage boys. According to police, Ibrahim had lured the boys with promises of high-paying jobs in the tourism industry. DRPS officials stated that Ibrahim was an escaped convict serving a sentence for sexual abuse.

In May police arrested the father, uncle, and four family friends of a 10-year-old child on charges of repeated sexual abuse. According to police the child had been abused since she was five years old.

*Trafficking in Persons.*—The constitution and laws do not specifically prohibit trafficking in persons.

There are no laws that specifically prohibit trafficking for commercial sexual exploitation; however, provisions of the 2008 Rules of Procedure can be used to prosecute cases of trafficking for sexual exploitation.

The country was a destination country for a number of migrant workers, predominantly from Bangladesh and India, who came to work in the construction and tourism sectors. It was unknown how many of these workers were trafficking victims, but of the 80,000 expatriate workers in the country, an estimated 20,000 were there illegally. These illegal workers were most at risk of becoming trafficking victims, as they lacked proper documentation to be in the country. In addition, most migrant workers, illegal and legal, borrowed large sums of money to pay foreign employment agents in their search for job opportunities in the country.

A small number of foreign women, predominantly from Sri Lanka, Thailand, India, and China, were trafficked to the country for sexual exploitation. In 2008 there were two identified cases of sexual exploitation in the country, one involved an Indian woman and one involved a Sri Lankan woman. Although there were no precise figures on the total number of victims, it is believed to be small. A small number of local teenage girls under the age of 18 years were trafficked to Male from other islands in the country to work as domestics in exchange for room and board and access to a better education than was available on their home islands.

The country was not a source country for the international trafficking of persons.

Traffickers in the country fell into at least two different categories depending on their victims. For internal trafficking local girls were generally sent by their parents from the outer islands to Male, so that they could receive a better education. The traffickers in these cases were affluent families in Male. The girls were identified and brought to Male based on personal relationships. If the two families did not know each other, a third party known to both families would act as an intermediary. There was no formal process or agents used. Once the girls were in Male, they faced an increased vulnerability to trafficking. There were allegations that some ended working full time as domestics and never attended school. There were allegations that girls were also sexually abused by the families with whom they stayed. Although this form of internal trafficking historically has been practiced in the country, improved education opportunities on the other islands has helped to curb this practice.

The second group of traffickers was employment agents, both within the country and outside. The law requires employers to use domestic employment agents to bring workers to the country. There were about 200 registered employment agents

in the country. In order to operate, agents needed to register with the Ministry of Human Resources, Youth, and Sports to receive quotas and work permits to bring in workers. Labor trafficking, however, occurred not just with employment agents but with employers. The trafficking offenses included fraudulent offers of employment, withholding of passports, withholding salaries, or not paying promised wages.

There were no known instances of government officials participating in, facilitating, or condoning trafficking.

The rights of trafficking victims for both sexual and labor exploitation were respected. The government did not provide trafficking victims with any special legal, medical, or psychological services to which citizens were not entitled. There were no known instances in which trafficking victims were fined or prosecuted. The government's policy was to return foreign trafficking victims to their countries of origin as quickly as possible. There were no reports of persons being returned against their will.

Officers with the Police and the Department of Immigration and Emigration had training in the proactive identification of trafficking victims. The training appeared to be widespread and effective.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—Although the constitution provides for the rights and freedom from discrimination of persons with disabilities, no law specifically addresses the rights of persons with physical or mental disabilities. Government programs provided services for persons with disabilities, including special educational programs for persons with hearing and vision disabilities. Inadequate facilities made it difficult for persons with disabilities to participate in the workforce. On November 9, there was a highly publicized report of Mariyam Rizwana, the first deaf citizen teacher.

On July 21, the Maldives Deaf Association received funding from the Ministry of Human Resources, Youth, and Sports to facilitate arts and crafts courses for deaf persons between the ages of 18 and 35 years old.

On October 29, President Nasheed launched the country's first sign-language dictionary. The objective of the book was to serve as a bridge between the deaf community and the rest of society. Handicap International funded the project.

The government established disability awareness and empowerment campaigns on some of the more populous islands. The government integrated students with physical disabilities into mainstream educational programs. Families usually cared for persons with disabilities; when family care was unavailable, persons with disabilities lived in the Ministry of Health and Family's Institute for Needy People, which also assisted elderly persons. When requested the government provided free medication for all persons with mental disabilities on the islands, but follow-up care was infrequent.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law prohibits homosexual conduct, and it was considered socially unacceptable. The punishment for men includes banishment for nine months to one year or 10 to 30 lashes. For women the punishment is house arrest for nine months to one year. There were no organizations concerned with lesbian, gay, bisexual or transgender (LGBT) issues in the country. There have not been any reports of officials complicit in abuses against the LGBT community. There were no reports of official or societal discrimination based on sexual orientation in employment, housing, access to education, or health care.

*Other Societal Violence or Discrimination.*—There were no reports of official or societal discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—For the first time, the constitution recognized the right to form associations, including the right to form trade unions and to participate or not participate in their activities. The constitution states explicitly that all rights and freedoms in the statute apply to "everyone" without any form of discrimination, including migrant workers.

The 2008 Employment Act, however, did not address the formation of trade unions. There were no reports during the year that labor unions were formed, but several worker associations had been established, primarily in the tourism sector. The existing organizations and associations active in the area of workers' rights do not have the legal authority to function as trade unions and enter into formal negotiations on behalf of workers they represent.

The constitution states that every person employed in the country has the freedom to stop work and to strike. This newly granted right was exercised frequently

in the last year, particularly in the construction and tourism sectors. Police sometimes employed force to suppress strikes. Workers' associations that have been established include the Teachers' Association of the Maldives, Tourism Employees' Association of Maldives (TEAM) and Fishermen's Association. TEAM organized work stoppages to protest against unfair working conditions, low wages, and long working hours.

The Employment Act does not cover emergency workers, air and sea crews, police, armed forces, executive staff of any company, and workers who are on call.

*b. The Right to Organize and Bargain Collectively.*—The new constitution and Employment Act do not address workers' rights to bargain collectively, but in practice informal collective bargaining involving employee associations primarily in the tourism sector began within days of the new law taking effect. Traditionally, wages in the private sector were set by contract between employers and employees and were based on rates for similar work in the public sector.

Problems arose in some resorts when employees' associations petitioned for wage increases and improvements in the conditions of work. When one resort operator refused to meet the demands and fired the leaders of the employees' association, the employees went on strike. In one instance police used force to remove the fired workers.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, there were no reports that such practices occurred. The HRCM reported, however, that some domestic workers, especially migrant female domestic workers, were in some cases trapped in circumstances bordering on forced labor in which employers used threats and intimidation to prevent them from leaving. Some teenage boys and girls who were sent to the city of Male for educational purposes found themselves working as domestics in exchange for food and lodging.

Migrant workers were predominantly employed in the construction and tourism sectors, where some could find themselves in situations of forced labor. The majority of victims of forced labor were reportedly coerced to work through one or more of the following practices: the holding of passports by employers, fraudulent offers of employment, not being paid the promised salary, and not being paid at all. It is unknown how widespread these problems were.

Generally, the Ministry of Human Resources blacklisted companies who violated the provisions of the Employment Act thereby preventing violators from bringing in new workers until violations were rectified. A fine of not more than Rf 5,000 (\$397) could be imposed on violators.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Employment Act sets 16 years of age as the minimum age for employment, with an exception for children who voluntarily participate in family businesses. The Employment Act also prohibits employment of children in "any work that may have a detrimental effect on his health, education, safety, or conduct." Child labor, however, was a problem in the fishing sector, small commercial activities, and family enterprises.

The Department of Gender and Family Protection Services of the Ministry of Health and Family was responsible for monitoring compliance with the law regarding child labor. Based on the limited information available, the ministry's enforcement appeared to be effective. The Ministry of Health and Family, the Ministry of Human Resources, Youth and Sports, and the Family and Child Protection Unit of Maldives Police Service received complaints of child labor, conducted inquiries, and initiated legal action.

*e. Acceptable Conditions of Work.*—The 2008 Employment Act establishes maximum hours of work, overtime, annual and sick leave, maternity leave, and guidelines for work place safety. The act also provides a mechanism to establish a minimum wage in the private sector. The minimum wage in the government sector was approximately Rf 2,600 (\$206) per month, which was adequate for a decent standard of living for a worker and family. Because of the tight labor market, private sector employers generally offered competitive pay and conditions to attract skilled workers.

The Employment Act also provides for a 48-hour per week limit on work with a compulsory 24-hour break if employees work six days consecutively. Overtime is possible; for example, employees in tourist resorts may work an additional two hours per day paid at overtime rates. The Employment Act states that employees working overtime shall be paid 125 percent their hourly working wage and, if working on a Friday or a public holiday, they shall be paid 150 percent their hourly working wage. The public sector provides a seven-hour workday and a five-day workweek.

With the exception of a few government-controlled corporations and a number of private companies, the HRCM reported that employers in general have not taken steps to comply with the Employment Act. Migrant workers were particularly vulnerable to exploitation and, upon arrival in the country, they found unacceptable work conditions, but they were forced to accept work at whatever wage was offered for debt repayment to the employment agency. The HRCM found many instances of nonpayment of wages to migrant workers and inadequate housing. Bangladeshi High Commissioner Professor Selina Mohsin reported that 110 Bangladeshi migrant workers died last year from construction-related injuries such as falls, heart attacks, extreme tension and stress, and the effects of working in hazardous environments without proper ventilation. The HRCM reported, however, that the status of migrant workers employed in the categories of senior management, professionals, and skilled workers was different. These workers enjoyed a status similar to citizens, if not at times better.

Under the Employment Act, workers have the right to refuse work that is dangerous; there are no reports as to whether this right is exercised in practice. Regulatory requirements in certain industries, such as construction and transport, require employers to provide a safe working environment and ensure the observance of safety measures. According to an HRCM report in August, there are no national standards for safety measures and as a result, such measures were at the discretion of employers.

Some employers that produce for export have adopted health and safety standards. Employers in different sectors, however, have reportedly not taken similar measures. The Employment Act grants workers the right to compensation if fired without cause. The act specifically bans discrimination based on race or color but it notes that "any preference given to Maldivians by an employer in granting employment shall not be deemed discrimination."

In December 2008 the government established a Labor Relations Authority and a Labor Tribunal to implement the new Employment Law. The Labor Tribunal did not begin operations until mid-April due to the absence of office space, budgetary constraints, and the need to revise the draft regulations.

In August the HRCM stated in a report that employment-related disputes were the most common complaints received at the commission. The report called for amendments to the Employment Act and claimed that relevant stakeholders were not consulted when it was formulated, resulting in conflict and nonimplementation of provisions in the law, including a cap on working hours and a minimum wage. The HRCM added that the institutions created by the establishment of the Labor Relations Authority were not yet fully functional and the courts have refused to hear labor disputes.

In May the government acceded to the International Labor Organization.

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## NEPAL

Nepal, a population of approximately 29 million, is a federal democratic republic. The political system is based on the 2007 interim constitution with a prime minister as the chief executive and a Constituent Assembly that serves as a legislature and is required to draft a new constitution by 2010. The prime minister, Madhav Kumar Nepal, of the Communist Party of Nepal—United Marxist Leninist (UML), took office on May 25 following the resignation of former prime minister Pushpa Kamal Dahal whose party, the United Communist Party of Nepal—Maoists (UCPN-M), has a plurality in the Constituent Assembly. Domestic and international observers generally characterized the 2008 election results as credible, although there were reports of political violence, intimidation, and voting irregularities. Civilian authorities generally maintained effective control of the security forces, but there were frequent instances in which elements of the security forces acted independently.

The government's respect for human rights improved slightly as all parties joined the government. Members of the security forces, the Maoist militias, the Maoist-affiliated Young Communist League (YCL), and members of other small, often ethnically based armed groups committed human rights abuses. Members of the Nepal Army (NA) were confined to their barracks in accordance with the Comprehensive Peace Agreement (CPA) of 2006. Members of the Nepal Police (NP) and Armed Police Force (APF) occasionally used excessive and lethal force in response to continued demonstrations throughout the country. Maoist militias engaged in arbitrary and unlawful use of lethal force and abduction. Violence, extortion, and intimidation continued throughout the year. Numerous armed groups, largely in the Terai region in the lowland area near the Indian border, attacked civilians, government officials,

members of particular ethnic groups, each other, or Maoist militias. Impunity for human rights violators, threats against the media, arbitrary arrest, and lengthy pretrial detention were serious problems. The government compromised the independence of the judiciary by exerting political pressure on the judicial process, and society continued to discriminate against persons of lower castes and persons with disabilities. Violence against women and trafficking in persons, mainly women and girls, continued.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were numerous reports that the government or its agents committed arbitrary or unlawful killings. The Informal Sector Service Center (INSEC) reported that security forces or other armed groups killed 229 persons during the year. Security forces killed at least 37 individuals, the Maoist party and its affiliate the YCL were believed to have killed four persons, and armed groups operating in Terai killed more than 21 persons; 141 persons reported killed could not be linked to a specific group, or the families and reporters were afraid to name the group. There were no substantive allegations of human rights abuses filed against the army during the year.

On March 26, the UN Office of the High Commissioner for Human Rights (OHCHR) reported that an unidentified group killed Prachanda Man Thaiba, a member of the UML-affiliated Youth Force (YF) in Butwal. The YF accused YCL member Sujit Biswo Karma, and the Maoists initiated an internal investigation. In April then Prime Minister Dahal promised an investigation which the National Human Rights Commission (NHRC) promised to conduct. NHRC has not followed up on the case after completion of a preliminary investigation. The case was registered at the area police office (APO) in Butwal following a First Incident Report (FIR) filed by the victim's father. The case will remain active for 20 years and will be submitted to the court if the perpetrators are found.

On April 2, the OHCHR reported that YCL members allegedly killed YF member Anuj Thapa Magar in Biratnagar. YCL district leadership denied involvement. Following an investigation police arrested two individuals. On April 6, a FIR was filed by his family members; it named three persons and noted another 10 to 12 unidentified persons were involved. On April 14, one person was arrested by police and subsequently released. At year's end the case continued.

On July 7, the OHCHR reported that villagers from Dhunchepakha and Chapacho killed three persons for allegedly trying to kidnap village children. On July 21, the deputy superintendent of police at the Thimi Metropolitan Police Office informed the OHCHR that eight persons had been arrested. Of the four the Bhaktapur District Court released one on bail for lack of evidence, while the remaining three were sent to the central jail in Nakkhu, where they were under pretrial detention.

There were no further developments in the 2008 killing of Ram Hari Shrestha in Chitwan District. In 2008 authorities charged five UCPN-M members in connection with the case: Govinda Bahadur Batala, Keshab Adhikari, Ganga Ram Thapa, Kali Bahadur Kham, and Arjun Karki. In 2008 the NP arrested Govinda Bahadur Batala, while the remaining four, who were allegedly under the protection of the Maoist-affiliated People's Liberation Army were not located.

Authorities closed the investigation into the 2007 killing of Moid Khan after the family withdrew the Supreme Court case.

According to INSEC, landmines and improvised explosive devices (IEDs) killed 12 persons and injured 41, including 32 children. Five deaths and one injury were reported from NA-planted landmines around military installations and infrastructure. The UN Mine Action Team has destroyed more than 14,682 IEDs in nine locations and cleared 17 of 53 antipersonnel minefields and 105 of the 312 IED fields the NA laid. The CPA and the December 2006 agreement on Monitoring of the Management of Arms and Armies called for all landmines to be identified and located within 30 days and removed completely within 60 days.

*b. Disappearance.*—The fate of many of those who disappeared during the 10-year Maoist insurgency (1996-2006) remained unknown. According to NHRC estimates, there were 835 unresolved cases of disappearances at year's end, 616 believed to involve the state and 219 believed to involve the Maoists. The International Committee of the Red Cross (ICRC) estimated the number of disappeared at more than 1,365. A significant number of the disappeared were young, married men who were the primary income earners for their families. At year's end the government had not prosecuted any government officials or Maoists for involvement in disappearances or released any information about the whereabouts of the 616 persons the NHRC identified as disappeared with state involvement.

The government did not respond to an OHCHR report on 49 disappeared persons who had been arrested and detained at the Maharajgunj barracks in Kathmandu in 2003 on suspicion of being linked to the Maoists, nor did it respond to the OHCHR's report on disappearances in the Bardiya district where at least 170 persons disappeared between 2001 and 2004. On August 28, the OHCHR again called on the government to investigate the human rights violations at Maharajgunj barracks, including the responsibility of those within the chain of command. In December Major General Toran Bahadur Singh, who was commander of the 10th Brigade and had chain of command responsibility for the Maharajgunj barracks, was promoted to lieutenant general and second in command of the NA, against the strong opposition of the OHCHR and local human rights organizations.

The media and civil society reported that abductions and kidnappings of children escalated during the year. Most abductions were for ransom and occurred in the Terai, where armed groups operated with relative impunity.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the 2007 interim constitution prohibits torture, the law does not clearly criminalize torture, and no one has been prosecuted for torture. The Torture Compensation Act (TCA) provides for compensation to victims of torture; however, the victim must file a complaint and pursue the case through the courts. During the year Advocacy Forum-Nepal (AF) filed 15 new cases under the TCA. The cases were pending in the district court.

A credible nongovernmental organization (NGO) reported that of the 2,079 detainees interviewed between January and June in 18 districts, 540 claimed they had been tortured. Citizens were afraid to bring cases against the police for fear of reprisal. Although the overall reported rate of torture decreased over the past year by 7.8 percent, in some districts, such as in Dhanusha, Kathmandu, Lalitpur, and Banke, the percentage was significantly higher. Credible national and international sources reported that security forces tortured blindfolded detainees and beat the soles of their feet, and kicked and beat detainees with plastic poles or bamboo sticks.

In 2008 a Human Rights Watch (HRW) report found more than 200 cases of torture or abuse in police custody of boys and girls as young as 13, mostly during interrogations. The HRW reported that children allegedly were tortured using methods such as kicking, punching, inserting metal objects under toenails, and beating with bamboo sticks and plastic pipes. Child Workers in Nepal Concerned Center, a credible local child rights NGO, registered 771 cases of violence and abuse of children in police custody.

On January 4, AF reported that uniformed police arrested and tortured Narayan Thapa. He was hospitalized, and his case was referred to the NHRC and OHCHR for investigation. On February 4, the case was registered at the Morang District Court under the Torture Compensation Act. The accused police personnel furnished their reply to the court before the November 24 deadline, but at year's end the Morang District Court had not set a date for the hearing.

On July 31, the OHCHR investigated allegations of torture and ill-treatment of Sushan Limbu and Bhakta Rai in the Uralbari APO in Morang. The OHCHR reported that one of the detainees had undergone surgery for injuries he suffered while in detention. The NP Human Rights Directorate investigated and on August 20 found four police personnel guilty of committing abuses: Inspector Chakra Bahadur Basnet, Head Constable Netra Bahadur Magar, Police Officer Bhesha Raj Acharya, and Police Officer Seman Khatri. On August 24, NP Headquarters issued a formal warning to the four and closed the case. After the human rights directorate of the NP completed its investigation, Inspector Chakra Bahadur Basnet returned to the Uralbari APO and resumed work despite the serious allegations against him.

During the year APF personnel reportedly tortured persons in Jhapa and Dhanusha districts. In the Jhapa district, 10 Bhutanese refugees allegedly were tortured at both the APF camp in Beldangi-2 refugee camp and at the Pathibara Gan APF camp in Padajungi, Jhapa district. In Dhanusha district, APF personnel allegedly tortured 13 persons, and in Udayapur district, the APF allegedly tortured nine persons.

During the year the AF documented 98 cases of torture by nonstate actors. The AF attributed responsibility for 49 cases to the Maoists and the YCL; 34 cases to Madhesi armed groups, including the Janatantrik Terai Mukti Morcha (JTMM); six cases to the Tharu Mukti Morcha; and nine cases to unidentified armed groups in the Terai. The government failed to conduct thorough and independent investigations of reports of security force or Maoist/YCL brutality and generally did not take significant disciplinary action against those involved.

INSEC reported that YCL rehabilitation centers appeared to have closed. The centers, which operated during the insurgency, had been used as ad hoc punitive detention facilities where villagers who were perceived to be anti-YCL were detained.

Between mid-July 2008 and mid-July 2009, the NHRC made recommendations to the government to resolve 157 complaints of human rights abuses, including torture and killings. None of these recommendations were implemented, since the government was still resolving a backlog of NHRC recommendations from 2003-04.

*Prison and Detention Center Conditions.*—Prison conditions were extremely poor and did not meet international standards. According to the director general of the Department of Prisons, 9,260 prisoners—8,599 men and 661 women—remained in custody through December 31. Although there generally were separate facilities for men and women, in some overcrowded prisons men and women were in the same prison but in segregated cells.

Due to a lack of adequate juvenile detention facilities, children were occasionally incarcerated with adults or were allowed to remain in jails with their incarcerated parents.

During the year the Supreme Court affirmed the standards for juvenile detention set out in the Torture Act and Regulations, and the court ordered government agencies to improve the infrastructure and capacity of existing juvenile correction homes, mandated the creation of new homes in regions lacking them, and prohibited juveniles from being returned to police custody. There is only one functional government-run juvenile reform home, Sano Thimi in Bhaktapur.

According to the Department of Jail Management, pretrial juvenile detainees are sent to the sole juvenile correction home and are not kept with convicted prisoners.

The government generally permitted the NHRC, ICRC, and OHCHR to make unannounced visits to prisons and detainees in army and police custody. Although the NHRC is authorized to request government action, the government often denied the NHRC the right to intervene.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but arbitrary arrests occurred during the year. Police routinely abused their 48-hour detention authority by holding persons unlawfully (i.e., without proper access to counsel, food, and medicine, or in adequate facilities), often at the behest of the chief district officer (CDO) or assistant CDO. It was not unusual for local government authorities (i.e., CDOs) to direct police to arrest individuals for minor, petty infractions (e.g., unpaid taxes), and many of those orders (which were frequently verbal) were undocumented and appeared politically motivated.

On August 3, two persons were arrested in Naubise, Dhading district, for allegedly being members of the Terai-based JTMM armed group and possessing arms. They were arrested by NP in civilian clothes and detained in the Kamalpokhari Ward Police Office. Both were reportedly mistreated, and arrest and detention letters were not issued to them until three days after their arrest.

*Role of the Police and Security Apparatus.*—The Comprehensive Peace Agreement (CPA) called on the NP and the APF to enforce law and order across the country. Police did not respond to most incidents of violence, particularly events involving Maoists and armed groups in the Terai. There were multiple incidents in which police detained Maoist and YCL cadres for illegal acts, but political leadership within the Home Ministry freed the detainees or other political leaders intervened.

Both the police and NA had human rights cells to investigate cases of abuse, although they tended to limit their activities to training and capacity building rather than investigating cases; corruption and impunity remained problems. Police generally were unarmed and had the role of preventing and investigating nonterrorist criminal behavior.

At the district level, police often operated without significant guidance from superiors, allowing considerable discretion in the enforcement of laws. As in 2008, there were many reports of police abuse and bribery.

*Arrest Procedures and Treatment While in Detention.*—The law stipulates that, except in cases involving suspected security and narcotics violations, authorities must obtain a warrant for arrest, arraign or release a suspect within 24 hours of arrest, and file a case in court within seven days of arrest; however, security forces regularly violated these provisions.

If the court upholds a detention, the law authorizes police to hold the suspect for 25 days to complete an investigation, with a possible extension of seven days. Security forces occasionally held prisoners longer. In some cases the Supreme Court ordered the release of detainees held longer than 24 hours without a court appearance. Some foreigners, including refugees, reported difficulty in obtaining bail.

Detainees have the legal right to receive visits by family members, and they are permitted access to lawyers once authorities file charges. In practice family access

to prisoners varied from prison to prison. There is a system of bail, but bonds were too expensive for most citizens. Pretrial detention often exceeded the period to which persons subsequently were sentenced after a trial and conviction. Persons detained have time they served credited to their sentence.

Under the Public Security Act, security forces may detain persons who allegedly threaten domestic security and tranquility, amicable relations with other countries, or relations between citizens of different classes or religions. The government may detain persons in preventive detention for as long as six months without charging them with a crime. The detention period can be extended after submitting written notice to the Home Ministry. The security forces must notify the district court of the detention within 24 hours. The court may order an additional six months of detention before the government must file official charges.

Other laws, including the Public Offenses Act, permit detention without charge for as long as 25 days. This act covers crimes such as disturbing the peace, vandalism, rioting, and fighting. Human rights monitors expressed concern that the act vests too much discretionary power in the CDO. Police frequently arrested citizens under this act and detained them for short periods without charge.

According to the AF, in some cases detainees were brought before judicial authorities well after the legally mandated 24-hour limit, allegedly to allow injuries from abuse to heal.

NGOs expressed concern about police use of private houses to hold detainees after arrest. In early May at least three detainees claimed to have been held in unofficial places of detention.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, but courts remained vulnerable to political pressure, bribery, and intimidation.

The Supreme Court has the right to review the constitutionality of legislation parliament passes. Appellate and district courts showed independence and impartiality in many cases, although they remained susceptible to political pressures.

The judicial system consists of three levels: district courts, appellate courts, and the Supreme Court. The Constitutional Council, chaired by the prime minister, nominates the chief justice of the Supreme Court. After an advisory hearing before the Parliamentary Special Hearing Committee, the president may then appoint the new chief justice. After advisory hearings the chief justice, on recommendation of the Judicial Council, appoints other Supreme Court justices. The council also is responsible for the assignment of judges, disciplinary action, and other administrative matters. A special court hears cases related to narcotics trafficking, trafficking in persons (mainly women and girls), crimes against the state, corruption, and crimes related to foreign currency.

Delays in the administration of justice were a severe problem. As of December 31, the Supreme Court reported a backlog of 10,306 cases. There was no indication that this backlog lessened during the year.

*Trial Procedures.*—Although the law provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law, and public trials, these rights were not equally applied except in a few security and customs cases. Judges decide cases; there is no jury system. All lower court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last resort.

The law provides detainees with the right to legal representation and a court-appointed lawyer, a government lawyer, or access to private attorneys; however, the government provided legal counsel only upon request. Persons who are unaware of their rights may be deprived of legal representation.

Military courts adjudicate cases concerning military personnel under the military code, which provides military personnel the same basic rights as civilians. Military personnel are immune from prosecution in civilian courts, except in cases of homicide or rape involving a civilian. The NA has argued that military personnel are immune from prosecution in civilian courts for conflict-era violations, an interpretation of law that is not shared by the human rights community and inconsistent with Supreme Court decisions. Military courts cannot try civilians for crimes, even if the crimes involve the military services; civilian courts handle these cases.

Authorities may prosecute terrorism or treason cases under the Treason Act. Specially constituted tribunals hear these trials in closed sessions, but no such trials have occurred since 1991.

Although the Maoists announced the dissolution of their parallel government structures and courts in 2007, according to police and NGO reporting they continued to function in some districts, particularly in rural areas. In areas where they no longer functioned, the Maoists often expected previous decisions and sentences to be carried out. These courts had no due process and handled both criminal and civil



cases. According to the OHCHR, these courts did not provide minimum guarantees of due process and fair trial.

*Political Prisoners and Detainees.*—No political prisoners or detainees were reported to be held by the government. According to INSEC, no labor camps were being operated by the UCPN-M.

*Civil Judicial Procedures and Remedies.*—During the year there were some allegations of government abuses of civil procedures including bribery and intimidation by political leaders.

*Property Restitution.*—The Maoists returned some previously seized property as the CPA requires but kept other illegally seized lands and properties in their possession; they also seized additional properties. For example, on September 1, more than 1,000 activists of Tamu Rastriya Mukti Morcha, an organization affiliated with the UCPN-M, seized land belonging to Bharat Gurung in Srinathkot.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—Security forces could enter and search houses without warrants, although forced searches are illegal. The YCL occasionally conducted illegal forced searches of businesses, civilian homes, and property.

Security personnel frequently conducted vehicle and body searches at roadblocks in many areas of the country.

There were no reports of the government forcing civilians to resettle. Some persons who had resettled to escape Maoist extortion, recruitment, or retaliation could not return home.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—There was significant internal conflict in the Terai. Numerous armed groups, many ethnically based, clashed with each other and with the local population. Police had a limited mandate and were unable fully to promote law and order. Members of the Maoists, the Maoist-affiliated YCL, and other ethnically based splinter groups in the Terai frequently committed acts of violence, extortion, and intimidation throughout the year.

On July 17, according to the OHCHR, APF personnel opened fire on protesters in the Saptari district, killing one person and injuring three others. The CDO informed the OHCHR that the dispute occurred during the arrest of several businessmen during which some protesters attempted to seize weapons from the APF and the APF fired. The NHRC was conducting an investigation of the incident, and a three-member probe committee commissioned by the Home Ministry submitted a report at the national level. District authorities were unaware of the content of the report; however, the CDO provided one million rupees (\$13,300) to the family of the victim.

*Killings.*—INSEC reported that during the year armed groups killed 229 civilians; of that number, the state killed 37. The OHCHR documented nearly 40 credible allegations of extrajudicial killings attributed to the NP in both the current year and 2008. There were no developments in the 2007 death of Ram Babu Sharma Neupane by cadres of the Janatantrik Terai Mukti Morcha-Goit faction (JTMM-G).

*Child Soldiers.*—The CPA forbade the use of children younger than 18 as soldiers in the armies of either side; however, the Maoists continued to recruit children after signing this agreement. The 2,973 combatants verified by UN Mission in Nepal to be younger than 18 as of May 2006 had not been released from the cantonments. An action plan for release was signed on December 16 between the Maoists and the government to establish a timetable and details for the discharge of the combatants.

*Other Conflict-Related Abuses.*—Maoists and Maoist-affiliated organizations continued to commit abuses during the year in contravention of the CPA. Maoists regularly extorted money from businesses, workers, private citizens, and NGOs. When individuals or companies refused or were unable to pay, Maoist recrimination was violent or implied the threat of violence.

Maoists attacked political opponents on several occasions. On May 6, according to the OHCHR, YCL members allegedly attacked the president of the Nepal Teacher's Union and member of the Nepali Congress (NC), Rup Narayan Jabegu, in the Panchthar district. While he took refuge in the district headquarters, the armed group reportedly vandalized his house, assaulted him with a knife, and shot at him. The group left when villagers gathered to protest. On May 7, approximately 100 to 150 NC members surrounded the houses of YCL cadres who were allegedly involved and vandalized one of the houses.

On May 31, according to human rights defenders, a group of 27 YCL cadres attacked the NC district president of Kalikot district, Mukti Prasad Neupane. He reportedly filed a FIR with the police, but there was no subsequent investigation.

On July 12, according to the OHCHR, in Gulmi district, Maoist followers reportedly abducted and assaulted a UML member. On July 14, the UML district secretary, along with members of other parties, filed a FIR about the incident. The deputy superintendent of police from Gulmi told the OHCHR that the perpetrators were charged under the Public Offense Act, and the case was pending with the CDO.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, in practice there were constraints on such freedoms.

The interim constitution protects media licenses from revocation based on what they print or broadcast. The government owned two television stations, Nepal TV and Nepal TV Metro, and controlled one radio station that broadcast both AM and FM signals. Radio remained the primary source of information, with more than 150 independent radio stations reaching more than 90 percent of the population.

The independent media were active and expressed a wide variety of views. Hundreds of independent vernacular and English-language newspapers were available, representing various political viewpoints.

Foreign publications were widely available, and none were banned or censored during the year. Foreign print media was present, and reporting on the country was allowed without restrictions.

Armed groups and political parties deliberately targeted media workers and journalists throughout the country. For example, printing presses and journalists were attacked by Maoists and their youth wing and by other smaller armed groups. The government promised action against those targeting journalists, although there were few instances where the government punished perpetrators. Impunity encouraged others to resort to threats and violence to silence journalists. The Maoists also influenced media outlets through their powerful trade unions. In the Terai and the eastern hills, armed groups coerced journalists, resulting in self-censorship and fear of personal safety. Armed groups and political parties burned newspapers that they found objectionable.

During the year one journalist was killed, one survived a shooting, and approximately 50 others were either attacked or threatened by various nonstate groups and, in a few instances, by security personnel. Police reportedly arrested three journalists, according to the Federation of Nepalese Journalists (FNJ), an umbrella association of journalists.

Three armed ethnic groups—Kirati Janawadi Workers' Party, Limbuwan, and Khambuwan—extorted money from journalists, according to the FNJ, although victims did not report these cases to police due to security concerns.

Female journalists came under particular and increasing threat. On January 11, a group of unidentified assailants killed Uma Singh, an investigative journalist based in Janakpur. A district Maoist leader and a relative were suspects, but no progress was reported on the investigation.

On January 22, in Kathmandu, a group of masked men entered the apartment of Yashoda Timsina, a journalist who reportedly was investigating the killing of Uma Singh. When they determined Timsina was not at home, they threatened her housekeeper.

On April 7, unknown persons telephoned threats to another female journalist in the Dhanusha district, Manika Jha, a correspondent from Kantipur Daily newspaper. She was later attacked by an unidentified group of assailants.

On December 9, an unidentified group severely beat and cut with knives a Rukum district female journalist, Tika Bista, a reporter for the Kathmandu-based Rajdhani Daily newspaper. She suffered lacerations and head trauma and was airlifted to Kathmandu and hospitalized for several weeks. The FNJ conducted an investigation and concluded that YCL members were responsible for the attack. The Maoists held a press conference condemning the attack and denying YCL involvement. District police made several preliminary arrests, but all detainees were later released, and police had no solid leads.

Several ethnic and political groups in the Terai seized and destroyed newspapers when the papers declined to publish and highlight protester activities, halt distribution of the newspapers during strikes, or prohibit Nepali-language content in newspapers.

Maoist activists allegedly seized and destroyed newspapers that published content they disagreed with, although they denied the allegations. For example, on June 11, copies of the Kathmandu Post and Kantipur Daily were destroyed in the Rupandehi district. On June 16, copies of Nagarik containing information the YCL disagreed with were destroyed. On August 23, copies of the Kathmandu Post and Kantipur were again destroyed.

On July 23, Tamsaling protesters burned copies of Kantipur and The Kathmandu Post in Dhading for “defying” a strike. Protesters burned copies of the Annapurna Daily and the Himalayan Times in Pokhara on July 22.

On August 23, activists of the Madhes Terai Forum, a splinter group of Madhesi Janadhikar Forum, burned 15,000 copies of the Kathmandu Post, Kantipur, and Nepal newsmagazine in the Saptari district. The group demanded a ban on all Nepali-language media in the Terai. On August 28, the FNJ issued a press release condemning the burning.

On March 21, a group of local college students vandalized Radio Mukti, an FM radio station run by a women’s group in Butwal. The station management alleged that Maoist-affiliated students threatened them for broadcasting reports about student elections.

In April Radio Parbat halted transmission after receiving threats. Managers later closed the radio station when an unknown group vandalized the station and ordered the staffers to stop working.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Approximately 2 percent of the population used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

The country’s media continued to report instances of abduction, extortion, and intimidation of school officials by armed groups.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association; however, the government sometimes restricted freedom of assembly.

*Freedom of Assembly.*—The law provides for freedom of assembly, and it was generally respected for citizens and legal residents of the country. The law authorizes CDOs to impose curfews if there is a possibility that demonstrations or riots may disturb the peace.

According to the OHCHR, the NP and APF occasionally responded to provocations and protests with excessive and lethal force. For example, on July 29 and 30, according to the OHCHR, the district administration office in Banke imposed a curfew that led to the NP arresting 29 protesters, during which 12 local residents and two police officers were injured.

The country limited freedom of expression for the Tibetan community, although the frequency and size of Tibetan demonstrations in Kathmandu decreased significantly in comparison with the previous year. Nonetheless, in March the government canceled the Tibetan community’s commemoration of the 1959 Tibetan uprising. Police also terminated demonstrations and sometimes detained demonstrators. In March and June, police intercepted and released in Kathmandu groups of Tibetans who attempted a march from Kathmandu to the border with China to protest conditions in the Tibetan areas of China. On September 2, police arrested seven Tibetan refugees protesting outside a hotel where a delegation of Chinese officials was staying. Police released the detainees on September 6.

*Freedom of Association.*—The law provides for freedom of association, and it was generally respected.

*c. Freedom of Religion.*—The interim constitution declares the country a secular state, and the law provides for freedom to practice one’s own religion; however, the law prohibits converting others and proselytizing. A conviction for conversion or proselytizing can result in fines or imprisonment or, in the case of foreigners, expulsion from the country, but there were no incidents of arrest for conversion or proselytizing during the year.

Members of minority religions occasionally complained of police harassment. Authorities limited the location of and otherwise restricted public celebrations by the Tibetan community, especially those who supported the Dalai Lama.

The Press and Publications Act prohibits the publication of materials that create animosity among persons of different castes or religions.

On May 23, three persons were killed and 13 others injured when a bomb exploded in a Catholic church in Kathmandu. The Hindu extremist Nepal Defense Army (NDA) claimed responsibility. On June 2, the police arrested Seeta Thapa Shrestha. The May bombing followed the 2008 killing of a Catholic priest, John Prakash Moyalan, by the NDA. On September 6, police arrested the head of the NDA, Ram Prasad Mainali, and three of his associates. They were convicted for the March 2008 bombing of a mosque in Biratnagar that killed two, and they were sen-

tenced to two years in prison for weapons violations and possession of explosives. The Office of the Attorney General did not file charges for murder or the church bombing.

In December 2008 the Maoist-led government announced plans to replace the Indian priests at Pashupatinath Temple with two Nepali priests. Following protests, the Supreme Court issued a stay order. On September 2, Prime Minister Madhav Kumar Nepal appointed two Indian priests to Pashupatinath Temple. In response, Maoist followers and others attacked two of the Indian priests at Pashupatinath Temple on September 5.

*Societal Abuses and Discrimination.*—The law prohibits caste discrimination, but citizens experienced it in a wide variety of religious, professional, government, and social environments, and such discrimination strongly influenced society.

There are no known Jewish adherents in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement, except for most refugees, whose freedom of movement within the country is legally limited. Constraints on refugee movements were unevenly enforced—more often against the Tibetan than the Bhutanese refugee population. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, stateless persons, and other persons of concern.

Numerous political groups restricted freedom of movement within the country, including forcing transportation strikes, known locally as “bandhs,” to bring attention to political issues. Ethnic groups in the Terai called most bandhs.

The law prohibits forced exile, and it was not used during the year. The government allowed citizens to emigrate and those abroad to return and was not known to revoke citizenship for political reasons.

*Internally Displaced Persons (IDPs).*—Although the government and Maoists agreed to support the voluntary return in safety and dignity of IDPs to their homes following the 10-year civil war, in practice the agreement was not implemented. Several UN agencies, including the UNHCR, OHCHR, and UN Development Program, continued working with the government to develop an IDP policy consistent with international principles. Civil society and international organizations estimated there were between 50,000 and 70,000 IDPs in the country. The Ministry of Peace and Reconstruction has registered 52,163 IDPs through its task force. The government allowed several international organizations such as the Norwegian Refugee Council, ICRC, Caritas, International Relief and Development, and Action Aid Nepal to initiate programs to assist IDPs. According to UN agencies and international NGOs, the main obstacles preventing most IDPs from returning to their homes continued to be fear of Maoist reprisal, local Maoist commanders’ refusal to allow IDPs to return to their homes, and conflict with those occupying the houses and lands of IDPs. Unrest in the Terai region led to more displacement. According to Caritas, the government made little effort to aid or monitor the movement of post-conflict IDPs. According to the Nepal IDP Working Group, most of the IDPs in the country were unwilling to return to their homes, due not only to a lack of security but also to economic concerns, primarily property, housing, and employment opportunities.

On March 18, according to the UN Office for the Coordination of Human Affairs, a large group of an alleged Mahato-affiliated group linked to UCPN-M attacked and temporarily displaced an estimated 65 families of the Sahani community. A large group of Maoists entered the Sahani community and assaulted families, vandalized houses, and looted property. Fearing persecution, the men from the Sahani community fled.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, and the laws do not provide for the granting of asylum or refugee status. The government has in place ad hoc administrative directives that provide some protection for Bhutanese and Tibetan refugees.

Since 1991 the government has provided asylum to approximately 108,000 persons who claimed Bhutanese citizenship. Almost all of these refugees lived in camps in the southeastern part of the country. The UNHCR administered the camps and monitored the condition of the refugees, and international organizations and NGOs provided for their basic needs, including food, education, and health care. The gov-

ernment continued to accept the refugees' presence on humanitarian grounds. Lutheran World Federation provided the infrastructure for the camps; the World Food Program provided food assistance; the Association of Medical Doctors of Asia provided medical care; and Caritas provided education assistance and coordination. The government officially restricted the refugees' freedom of movement and work, but those restrictions largely were unenforced for this population.

The security situation in the camps improved as a result of the government's continued security presence in the camps. An option of third-country resettlement diminished support among the Bhutanese refugees for the small but radical anti-resettlement groups previously active in the camps. In 2007 the government agreed to permit third-country resettlement for Bhutanese refugees, and the resettlement program saw its first significant movements in 2008. By the end of the year, approximately 25,000 refugees had been resettled to seven countries.

Between 1959 and 1989, the government accepted approximately 20,000 Tibetans and recognized them as refugees. Since 1990 the government has not recognized Tibetans as refugees. Consequently, most Tibetans who arrived in the country have transited to India, although an unknown number of Tibetans arriving since 1989 have chosen to remain or returned to the country after visiting India.

Between 1990 and 2008, the number of Tibetans transiting the country to find asylum in India ranged from 2,000 to 3,000 per year. Following 2008 protests and subsequent riots in the Tibet Autonomous Region and other Tibetan areas of China, the People's Republic of China heightened security along its border. After March 2008 the number of Tibetans transiting the country dropped significantly, falling to fewer than 700 per year. There continued to be reports of harassment by Chinese border guards within Nepal's borders, including a credible report by an international observer of a joint patrol by Chinese and Nepali border officials more than 30 miles inside Nepal. There were also numerous instances of APF officers assisting and protecting Tibetan refugees found in the border region. There were no confirmed reports of refoulement, but there were unconfirmed allegations of acquiescence to the return of Tibetans found on the border.

Many of the Tibetans who lived in the country did not have legal resident status. Those who arrived after 1990 generally had neither status nor documentation. Even those with acknowledged refugee status had no legal rights beyond the ability to remain in the country. Bribery was required to obtain access to higher education, business ownership, licenses, and legal transactions, including documentation of births, marriages, and deaths. In February during the period leading to the 50th anniversary of the Dalai Lama's exile from Tibet, approximately 20 Tibetans reported that Kathmandu police extorted money and threatened them with arrest and deportation.

There were numerous reports that police and other local officials harassed Tibetans engaged in daily activities. Police reportedly conducted random checks of identity documents of Tibetans, including monks. Reportedly, these checks sometimes included threats of deportation, followed by requests for bribes.

The country also hosted in Kathmandu approximately 300 refugees from other countries, including Somalia, Burma, and Pakistan. The government continued to deny these groups recognition as refugees and to require prohibitive fines to obtain permission to exit. However, the government permitted the waiver of the fines in a few instances in which there were compelling humanitarian concerns. The government also allowed the UNHCR to provide some services for these refugees.

*Stateless Persons.*—In 1995 the government-established Dhanapati Commission estimated that 3.4 million individuals in the country were de facto stateless. Although the government acknowledged that they were Nepalis, they did not hold the citizenship certificate (issued to citizens at the age of 16), without which they could not obtain many rights of citizenship. Although the 2006 Citizenship Act allowed more than 2.6 million persons to receive citizenship certificates, NGOs estimated that approximately 800,000 de facto stateless persons remained in the country. There was no further progress during the year on this issue.

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

The law provides citizens with the right to change their government peacefully.

*Elections and Political Participation.*—In 2008 citizens elected members for a Constituent Assembly (CA) to serve as both a legislature and constitution drafting body. Domestic and international observers found the election results credible, although there were reports of political violence, intimidation, and voting irregularities. The most recent local elections, held in 2006, were not considered free and fair.

The CA consists of 601 members, with 240 elected by a first-past-the-post system; 335 by proportional representation, quotas for Dalits, oppressed caste/indigenous

ethnic groups, Madhesis, women, and other underrepresented groups; and 26 nominated by the cabinet. CA members classified as oppressed or members of minority ethnic groups constituted 35 percent of the total, and 33 percent were women. The president and vice president belong to the historically disadvantaged Madhesi ethnic community.

There are no specific laws that restrict women, indigenous people, or minorities from voting or participating in government or in political parties, but tradition limited the roles of women and some castes and ethnicities in the political process. Members of certain castes traditionally held more power than others. Of the 44-member cabinet, seven members were from ethnic minority communities, five were women, and four were Dalits. Most of the larger political parties had associated youth wings, trade unions, and social organizations.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively. The Commission for the Investigation of the Abuse of Authority (CIAA), mandated to investigate official acts of corruption, claimed a 75 percent success rate concerning corruption cases it filed, but some cases involving politicians were not filed or were defeated in court. Most civil society organizations believed the CIAA was not an effective commission.

The CIAA requested the Ministry of Forest and Soil Conservation to take action against employees of the Tatopani Customs Office who allegedly aided smugglers across the Tatopani/Chinese border, but the ministry took no action.

The CIAA urged the chief secretary, prime minister, and Cabinet Secretariat to follow established legal procedures when accepting funds from international organizations, after CIAA discovered some civil servants had written false development proposals. There was no further information to the CIAA from the chief secretary, prime minister, or the Cabinet Secretariat on their implementation of the CIAA directives.

In 2007 the interim parliament passed the Right to Information Law, which mandated that public organizations provide citizens with information as quickly as possible and respond within 15 days. In practice the government generally met this requirement. If authorities deny individuals access to information, officials must provide a valid explanation. The law provides five exemptions for withholding information: to facilitate the investigation and filing of criminal cases, to protect the economic and commercial interests of the country, to preserve banking and commercial secrecy, to prevent disruption of communal harmony, or to prevent disruption to personal life or security.

Corruption and impunity remained problems within the NP. According to international observers, there was a severe shortage of senior-level officers. At the district level, this shortage resulted in untrained constables making policies and decisions outside of their authority and without supervision from officers, creating space for bribery, corruption, misinterpretation, and abuse of authority.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic and international human rights groups generally operated without government restriction and were able to investigate and publish their findings on human rights cases. Government officials were cooperative with and responded to their views in a few cases.

There were approximately 13 independent domestic human rights NGOs, including Advocacy Forum (AF), the Human Rights Organization of Nepal, Informal Sector Service Center (INSEC), Inhured, the Human Rights and Peace Society, and Him Rights. The Nepal Law Society also monitored human rights abuses, and a number of other NGOs focused on specific areas such as torture, child labor, women's rights, and ethnic minorities.

According to the UN Office for the Coordination of Humanitarian Affairs, there were occasional credible claims that Maoists interfered with the operations of international NGOs.

The government welcomed and regularly granted visas to international NGOs and other human rights monitors, including members of Amnesty International and HRW. Authorities generally gave international observers access to barracks and places of detention. International observers were not granted access to courts martial and military investigations.

As set out in the 2006 CPA, the OHCHR continued its work with the government to formulate and implement policies and programs for the promotion and protection of human rights.

During the year the OHCHR issued 43 press releases. The media covered all reports freely.

The commissioners of the NHRC began their duties in 2007 to investigate past and current allegations of abuses. Resource constraints and insufficient manpower restricted the number of cases the commission investigated. Once the NHRC completes an investigation and makes a recommendation, the government has three months to respond. The commission received 677 complaints of human rights violations during the year. The NHRC also investigated illegal detention and arrest of acquitted persons. The NHRC reported open access to government detainees across the country.

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

The law specifies that the government shall not discriminate against citizens on grounds of race, sex, caste, or ideology; however, a rigid caste system continued to operate throughout the country in many areas of religious, professional, and daily life. Societal discrimination against lower castes, women, and persons with disabilities remained common, especially in rural areas.

*Women.*—Under the civil code, sentencing provisions for rape depend on the age of the female victim, with the maximum possible jail sentence of 10 to 15 years if the victim is younger than 10, and the minimum possible jail sentence of five to eight years if the victim is older than 20. The victim's compensation depends on the degree of mental and physical torture. Under the 2006 Gender Equality Amendment Act, the definition of rape includes marital rape, and the husband can be jailed for three to six months.

Most incidents of rape went unreported. In 2008, for example, during a four-month period, 391 cases of rape and 75 cases of attempted rape were filed in the court, according to the women's police cell. A 2003 survey found that 39 percent of rape victims who reported the crime to police were younger than 19. Of victims who reported the crime to the authorities, 25 percent said the government arrested and convicted the perpetrator. Police and the courts were quick to respond to rape cases.

Domestic violence against women remained a serious problem that received limited public attention. There was a general unwillingness among police, politicians, citizens, and government authorities to recognize violence against women as a problem. Educational programs by NGOs for police, politicians, and the general public continued to lead to greater awareness of the problem. Police had women's cells in 41 of the country's 75 districts. Female officers in the cells received special training in dealing with victims of domestic violence and trafficking. Police also issued directives instructing all officers to treat domestic violence as a criminal offense but found the directives difficult to enforce because of entrenched discriminatory attitudes among police. Even if police made arrests, often neither the victim nor the government pursued prosecution.

The Domestic Violence (Crime and Punishment) Act 2005 imposes a fine of 3,000 to 25,000 rupees (\$40 to \$330), six months' imprisonment, or both for a person who commits domestic violence. Repeat offenders receive twice the punishment. Any person holding a position of public responsibility is subject to 10 percent more punishment than one who does not hold such a position. Pursuant to article 6 of the act, anyone who does not follow the order of the court can be charged a fine of 2,000 to 15,000 rupees (\$25 to \$200), four months of imprisonment, or both.

In September police interrogated a 14-year-old rape victim in front of a large crowd outside the Sunsari Police Station in Dharan. One of the alleged rapists was a police officer, Suresh Kuma Sah, who offered the family 30,000 rupees (\$400) to withdraw the case against him. According to district police, the officer was arrested and was in custody.

There was no progress in the 2008 case of Laxmi Bohara, whose husband and mother-in-law forced her to swallow a fatal poison because they were upset with her activities as a women's rights activist.

Although the law prohibits polygamy, it persisted. Polygamists are subject to a two-month jail term and fine, but the second marriage is not invalidated. Between June 2008 and 2009, 170 cases of polygamy were officially reported. Violence surrounding polygamy remained a problem. Rishi Pandit killed Nirmla Thapa during a domestic dispute over this matter. According to the NP, there was a 27 percent increase in polygamy cases filed during the last half of the year.

The dowry tradition was strong in the Terai districts bordering India, and there were sporadic incidences of bride killing over dowry disputes. More often, husbands or in-laws seeking additional dowry physically abused wives or forced women to leave so the men could remarry.

In April Bishnu Bhatta of Daiji Champapur was arrested for severely beating his daughter-in-law, Laxmi Devi Bhatta, for not eliciting enough of a dowry.

In January Oshim Idris was sentenced to seven years in prison and his mother Raksana Idris to five years for causing severe burns to Hasrun Idris in 2007 because they were dissatisfied with the dowry her family had paid. The court decided not to take action against her brothers-in-law, who allegedly were accomplices, leading to concerns about Hasrun and her children's security.

Traditional beliefs about witchcraft negatively affected elderly rural women and widows. Shamans or other local authority figures publicly beat and physically abused alleged witches as part of an exorcism ceremony. The media and NGOs reported numerous cases of this violence during the year. For example, Kalli Kumari BK of Lalitpur district was tortured by Bimala Lama, principal of a local school, because a shaman indicated that she could be practicing witchcraft. Lama was not charged with any crime. Similar incidents occurred in other parts of the country. There was no government mechanism to prevent such abuses or to provide compensation to the abused.

In July villagers in Tengar beat and forced Patambari Devi Das to eat human excrement because they accused her of witchcraft. According to traditional beliefs, witches lose their power after this treatment.

An estimated 7,500 women were forced into commercial sexual exploitation in other countries and increasingly within the country. Forced prostitution is illegal, but there are no laws banning prostitution by choice.

Couples and individuals generally may decide freely and responsibly the number, spacing, and timing of their children, and were not subject to discrimination, coercion, and violence regarding these choices.

Contraception was available to both men and women, and 44 percent of married women used a modern contraceptive method. One in four married women (25 percent) had an unmet need for family planning.

Forty-four percent of mothers received prenatal care from a doctor, nurse, or midwife. Most births (81 percent) were at home, and 67 percent of mothers received no postnatal care.

Men and women generally were equally diagnosed and treated for sexually transmitted infections, including HIV. According to the Nepal Demographic Health Survey, 75 percent of women and more than 90 percent of men had heard of HIV and understood the methods of prevention.

Although the law provides protections for women, including equal pay for equal work, the government did not implement those provisions, even in many state industries. The law contains a provision against sexual harassment and provides penalties of as long as a one-year jail sentence and a fine of as much as 10,000 rupees (\$130). Government enforcement was weak.

In 2008 the Supreme Court upheld the right of women to equal wages for work of equal value. In its decision, the court referred to the Convention on the Elimination of all Forms of Discrimination against Women regarding the right of women to parity in remuneration, as well as constitutional protections.

Women faced systematic discrimination, particularly in rural areas, where religious and cultural traditions, lack of education, and ignorance of the law remained severe impediments to the exercise of basic rights, such as women's right to vote or to hold property in their own names.

Citizenship may not pass through the mother, and the children of female citizens married to foreign spouses can claim citizenship only if they meet naturalization requirements. Women may register birth and death information. Women did not need permission from their husband or parents to get a passport. Unmarried, widowed, and divorced women were able to inherit parental property. Women did not need the permission of their husband, son, or parents if they wished to sell or hand over ownership of property.

Despite the 2006 Gender Equality Act, discriminatory provisions remain in the law. For example, the law on property rights favors men in its provisions for land tenancy and the division of family property. The Foreign Employment Act requires a woman to get permission from the government and her guardian before seeking work through a foreign employment agency. The law encourages bigamy by allowing men to remarry without divorcing the first wife if she becomes incapacitated or infertile.

According to the 2001 census, the most recent statistics available, the female literacy rate was 43 percent, compared with 65 percent for men. NGOs focused on integrating women into active civil society and the economy. Most political parties had women's groups that advocated for women's rights and brought women's issues before the party leadership.

*Children.*—According to the interim constitution, citizenship is derived solely from a Nepali father. Nepali mothers who are married to foreigners or who cannot prove a child's father is Nepali can confer citizenship only if their child complies with the



naturalization requirement of 15 years' residence in the country. Children found within the borders of the country without parental identity are considered citizens on the basis of lineage until the parents of the child are identified. According to a 2008 report by the Ministry of Women, Children and Social Welfare, 35 percent of births were registered.

Although the law provides for the welfare and education of children, its implementation was uneven. Education was not compulsory. Government policy provided free primary education for all children between the ages of six and 12 years. Approximately 70 to 75 percent of boys who worked went to school, compared with only 50 to 60 percent of the girls who worked. Human rights groups reported that girls attended secondary schools at a rate half that of boys. The government reported 91.9 percent of school-age children were attending public schools but that girls were the majority of those deprived of basic education. A reported 1,058 legally registered madrassas functioned throughout the country.

The government provided basic health care free to children and adults, but government clinics were poorly equipped and few in number, and serious deficiencies remained. Some health clinics in rural areas were forced to close due to Maoist intimidation.

Violence against children rarely was prosecuted, and commercial sexual exploitation of young girls remained a serious problem.

There are no laws against discrimination against female children, and in practice there was considerable discrimination. Although the law prohibits marriage for girls before the age of 18, child brides were common, and girls were sometimes forced to marry before the onset of puberty. Social, economic, and religious values promoted the practice of child marriages. According to the Ministry of Health, girls' average age of marriage was 16 years, and boys' average age was 18. An age difference in marriage often was cited as a cause of domestic violence.

Internal displacement due to the decade-long Maoist conflict continued to be a problem, with estimates of the number displaced ranging widely. As IDPs, children faced inadequate access to food, shelter, and health care and had limited access to education.

According to the local NGO Child Workers in Nepal, 206 boys and 64 girls and two unidentified were reported missing. Many of the missing children were presumed to have been trafficked. Of the 270 missing children, police records indicated that 172 boys and 74 girls were later found.

*Trafficking in Persons.*—The law prohibits all forms of trafficking in persons; however, trafficking in women and children remained a serious problem.

The country was a source country for trafficking. Young women were the most common targets. Trafficking of boys rarely was reported, but girls as young as nine years were trafficked, primarily to neighboring countries. Although the majority of trafficking was of women and girls for sexual exploitation, men, women, and children also were trafficked for domestic service, manual or semiskilled bonded labor, work in circuses, or other purposes. Men were trafficked for involuntary servitude in Iraq by labor recruiting agencies; they generally were promised jobs in other Gulf countries but were subsequently transferred to Iraq under threat or deception. There were more reports than in previous years that men were trafficked for labor exploitation to the Middle East. Most women and girls trafficked from the country went to India, lured by promises of jobs or marriage.

An estimated 12,000 women and children were trafficked into sexual exploitation in Indian brothels, and an unspecified number were victims of internal sex trafficking. Traffickers posing as labor recruiting agencies sent women to Saudi Arabia, Malaysia, Hong Kong, the United Arab Emirates, and other Gulf states for sexual exploitation and domestic servitude.

Community Action Center, an NGO that assists female sex workers, estimated that in August there were 5,275 women working in the sex industry in the Kathmandu valley.

Internal trafficking for forced labor and sexual exploitation also occurred and appeared to increase during the year. According to studies conducted by Save the Children and Action Aid, internal trafficking likely was on the rise due to the lingering effects of the insurgency, as rural women and children left their homes to seek employment and security in urban centers. A 2007 NHRC report estimated that approximately 40,000 female workers between the ages of 12 and 30 worked in 1,200 cabin and dance restaurants and massage parlors in the Kathmandu valley. The girls reportedly had been assured jobs, primarily in the Middle East.

In May local authorities raided houses in Ghorahi and freed four girls (ages 10-16) who had been forced into indentured servitude (the *kamlari* system). The country has laws to protect against forced labor and child labor; however, the tradition of

employing girls and young woman as domestic workers continued in rural and remote areas of the country.

Traffickers were usually from the country or India and often had links to brothels in India, but recruiters who sought girls in villages were primarily Nepali citizens. In many cases parents or relatives sold women and young girls into sexual slavery. Corruption was also believed to facilitate trafficking, but there were few reported investigations or prosecutions of complicit government officials. The government identified 26 districts as major source areas of trafficking and established antitrafficking task forces in each of these districts. Women and youth displaced from homes as a result of the insurgency were especially vulnerable to being trafficked.

Enforcement of antitrafficking statutes improved but remained sporadic. The law prohibits the selling of persons in the country or abroad and prescribes imprisonment of as long as 20 years for infractions. Implementation of the 2007 Trafficking in Persons and Transportation Control Law was poor, reportedly due to lack of knowledge regarding provisions and the generally weak rule of law situation in the country.

Police records of trafficking cases and cases registered by NGOs did not match. Maiti Nepal, the country's largest antitrafficking NGO, registered 29 cases of trafficking in the Kathmandu district court. According to the Attorney General's Office, the government made 14 convictions for trafficking (with 19 acquittals and 59 cases pending) across the country from June 2007-08.

The government did not monitor labor recruiting agencies adequately to ensure that workers going abroad attended premigration orientation sessions or that labor contracts were honored after workers' arrived in receiving countries. Recruiters in the country who tricked workers into forced labor in Iraq despite a government ban remained largely unmonitored and unpunished.

The government had a national plan to combat trafficking and a National Rapporteur on Trafficking; however, political instability and security problems hindered the government's antitrafficking efforts.

Official corruption in identity documentation and at ports of entry continued to facilitate the illicit movement of persons across the country's borders. The National Task Force in the Ministry of Women, Children, and Social Welfare (MWCSW) continued to coordinate the response to trafficking cases. There were programs in place to train police, and the MWCSW worked closely with local NGOs to rehabilitate and otherwise assist victims. Police women's cells in 41 districts worked with NGOs to provide referral services to victims of trafficking and domestic violence.

The government provided limited funding to NGOs to assist victims with rehabilitation, medical care, and legal services. The MWCSW sponsored job and skill training programs in several poor districts with high rates of commercial sex workers. The government protected the rights of victims and did not detain, jail, or prosecute them for violations of other laws.

The government, with NGOs and international organizations, implemented local, regional, and national public awareness campaigns on trafficking in persons; however, the government failed to provide adequate police training and resources or prompt adjudication. Government welfare agencies worked with NGOs to deliver public outreach programs and assistance to trafficking victims. Maiti Nepal stationed rehabilitated trafficking victims as guards with government officials to intercept trafficking victims at border crossings.

Maiti Nepal provided transit homes for girls rescued from trafficking. Transit homes were located in border towns of eight districts through which many girls were trafficked into India. During the year 2,673 children and women stayed at the transit homes after authorities intercepted them while they were being trafficked. At the Maiti Nepal Rehabilitation and Protection Home, children and women could stay as long as six months and learn income-generating skills. At year's end, 341 children and women were residing in Maiti Nepal's rehabilitation home in Kathmandu. Other NGOs also provided transit homes.

During the year Maiti Nepal's head office rescued and repatriated 118 children and women from India and the Gulf countries. Many had been expelled from their brothels after contracting sexually transmitted diseases or tuberculosis. Most were destitute, and according to estimates by Maiti Nepal and ABC Nepal, 50 percent were HIV-positive. Maiti Nepal operated a hospice for HIV-positive trafficking victims and their children.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law does not prohibit discrimination against persons who have physical and mental disabilities, and there was such discrimination in employment, education, access to health care, and in the provision of other state

services. The law mandates access to buildings, transportation, employment, education, and other state services, but these provisions generally were not enforced. The government did not implement effectively or enforce laws regarding persons with disabilities. The MWCSW was responsible for the protection of persons with disabilities. Some NGOs working with persons with disabilities received funding from the government; however, most persons with physical or mental disabilities relied almost exclusively on family members for assistance.

*National/Racial/Ethnic Minorities.*—The law provides that each community shall have the right “to preserve and promote its language, script, and culture” and that each community has the right to operate schools at the primary level in its native language. In practice the government generally upheld these provisions.

There were more than 75 ethnic groups who spoke 50 different languages. In remote areas school lessons and radio broadcasts often were in the local language. In urban areas education was almost exclusively offered in Nepali or English.

Discrimination against lower castes and some ethnic groups, particularly Madhesis and Janajatis, was especially common in the Terai and in rural areas in the western part of the country, even though the government outlawed the public shunning of Dalits and made an effort to protect the rights of disadvantaged castes. Better education and higher levels of prosperity, especially in the Kathmandu valley, were slowly reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Better-educated, urban-oriented castes continued to dominate politics and senior administrative and military positions and to control a disproportionate share of natural resources.

Caste-based discrimination is illegal; however, Dalits were barred occasionally from entering temples and sharing water sources. Progress in reducing discrimination was more successful in urban areas.

Resistance to intercaste marriage (upper and lower caste) remained high.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The country has no laws that specifically criminalize homosexuality; however, government authorities, especially police, sometimes harassed and abused homosexual persons. According to Blue Diamond Society, an indigenous NGO, harassment of such persons was common by both government and citizens.

In 2008 the Nepal Army Court upheld the NA’s 2007 decision to fire Sergeant Bhakti Shah for being a lesbian while serving as an instructor at the military academy. On September 26, Shah filed an appeal before the Supreme Court. The Supreme Court hearing was initially scheduled for November 30 but did not occur during the year.

As a result of the 2007 Supreme Court decision that sexual minorities are natural persons, transgender individuals may be issued third-gender identification cards. In 2008 the first transgender individual received a citizenship certificate. The court also directed the government to eliminate discriminatory laws and policies for sexual and gender minorities. Other than issuing the certificates, the government made no progress on complying with the Supreme Court’s order.

*Other Societal Violence or Discrimination.*—In 2007 the Supreme Court directed the government to enact laws to protect lesbian, gay, bisexual, transgender, and intersex (LGBTI) fundamental rights, enable third-gender citizenship, and amend all laws that are sexually discriminatory. At year’s end the court order had not been implemented. Many mainstream political parties included pro-LGBTI legislation in their party manifestos.

In 2008 the Supreme Court instructed the government to form a committee to examine same-sex marriage. The committee was formed and began its work during the year. NGOs working on LGBTI issues reported that police harassment of sexual minorities occurred in rural areas of the country, especially in the Terai.

There was no official discrimination against those who provided HIV prevention services or against high-risk groups likely to spread HIV/AIDS, although there was societal discrimination against these groups.

There was no official discrimination against those who provided HIV prevention services or against high-risk groups likely to spread HIV/AIDS, although there was societal discrimination against these groups.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law grants workers, including noncitizens, the freedom to establish and join unions and associations, but the government protected these rights unevenly in practice. The law permits the banning of unions only in cases of subversion, sedition, or similar conditions. Members of the armed forces and the police are not permitted to form a union, and members of the management of private or public enterprises are not permitted to take part in union activities. In

the public sector, employees under the level of undersecretary can join a union. Trade unions developed administrative structures to organize workers, bargain collectively, and conduct worker education programs. The three largest trade unions were affiliated with political parties.

Only 10 percent of the total work force was in the formal sector; the remaining 90 percent worked in the informal sector. Of the formal sector work force, 75 percent participated in unions. The law contains enabling regulations; however, the government did not fully implement acts protecting trade unions or combating and regulating child labor. The law defines procedures for establishing trade unions, associations, and federations. It also protects unions and officials from lawsuits arising from actions taken in the discharge of union duties, including collective bargaining, and prohibits employers from discriminating against trade union members or organizers.

The government enforced some barriers to the participation in union federations through minimum required thresholds for the formation of trade union federations and confederations. The government did not restrict unions from joining international labor bodies. Several trade federations and union organizations maintained a variety of international affiliations.

The law provides the right to strike except by employees in essential services, and workers exercised this right in practice. The government used the legislation to ban strikes in sectors, including several that go beyond international standards for essential services, such as banking, hotels, and restaurants. The law empowers the government to halt a strike or to suspend a union's activities if the union disturbs the peace or if the strike adversely affects the nation's economic interests. The process for conducting a legal strike is cumbersome, as 60 percent of a union's membership must vote in favor of a strike in a secret ballot, and the union is required to give notice 30 days before a strike.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, but the government did not effectively enforce these provisions. Collective bargaining agreements covered an estimated 10 percent of wage earners in the organized sector. Labor leaders faced challenges in reaching collective bargaining agreements due to political infighting among trade unions, and the government did not effectively enforce protections regarding antiunion retaliation due to legal obstacles to striking, insufficient capacity, and employer resistance. According to the General Federation of Nepalese Trade Unions, collective bargaining was not effective in new factories and industries, but it was successful in some of the well-established factories and industries. Workers often faced threats or dismissal for attempting to organize a union, and the government did not effectively enforce protections regarding antiunion retaliation.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor. In practice there were reports that forced labor occurred, especially in domestic servitude, food services, and the sex industry.

Bonded labor remained a problem primarily in the agricultural sector as well as the small formal sector, which included brick and kiln works and food services such as tea shops and restaurants. Enforcement of the Kamaiya Prohibition Act of 2002 by the government was uneven, and social integration of the Kamaiyas—former bonded laborers—was difficult. During the year the government rehabilitated an additional 4,870 Kamaiyas, bringing the total rehabilitated to 20,402 of a total 27,570, mostly living in Dang, Banke, and Kanchanpur districts. Most unrehabilitated Kamaiyas lived in Bardiya and Kailali districts.

The Ministry of Labor enforced laws against forced labor only in the small formal sector.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law establishes a minimum age for employment of minors at 16 years in industry and 14 years in agriculture, and it mandates acceptable working conditions for children. Employers must maintain records of all laborers between the ages of 14 and 16. The law also establishes specific penalties for those who unlawfully employ children, but regulations to enforce the law have not been fully implemented. The law stipulates that children shall not be employed in factories, mines, or 60 other categories of hazardous work and limits children between the ages of 14 and 16 years to a 36-hour workweek (six hours a day between 6 a.m. and 6 p.m. and six days a week). The Child Labor Act of 2000 applies only to formal sectors of the economy, such as tourism, cigarette or carpet factories, and mines.

Child labor was a significant problem, particularly in the large informal sector, including agriculture, domestic service, portering, rag picking, and rock breaking. The agricultural sector accounted for an estimated 95 percent of child laborers. Chil-

dren working in textiles and embroidery faced hazards, as they were confined to small, poorly ventilated rooms where they worked with sharp needles. Resources devoted to enforcement were limited. According to the International Labor Organization (ILO), the agricultural sector accounted for less than 40 percent of child laborers. According to the National Leaving Standard Survey of 2004, which was the most recent survey available, 1.8 million children, most of them girls, participated in the labor force. Of those, 1.17 million children worked full time. According to the ILO and the Ministry of Labor, inspectors found no children working and no legal action taken in the formal sector. At the same time, an estimated 60 percent of children who worked also attended school.

The Ministry of Labor, responsible for enforcing child labor laws and practices, had a mixed enforcement record. According to the ministry, there were 10 labor inspectors employed during the year. The ministry reported it carried out 1,198 labor inspections across the country during the 12-month period ending in July. The Home Ministry raided restaurants and brothels and rescued and rehabilitated 75 children.

*e. Acceptable Conditions of Work.*—The minimum wage for unskilled laborers was approximately 4,600 rupees per month (approximately \$65). The wage for semi-skilled workers was set at 4,650 rupees (\$66), for skilled workers at 4,760 rupees (\$67), and for highly skilled workers at 4,950 rupees (\$70). None of these minimum wages was sufficient to provide a decent standard of living for a worker and family. It is possible to increase this wage through a tripartite mechanism comprising representatives of the government, the employer, and the employee. Wages in the informal service sector and in agriculture ranged from 100 to 190 rupees per day (\$1.28 to 2.43). The law calls for a 48-hour workweek, with one day off per week and one-half hour of rest per eight hours worked, and it limits overtime to 20 hours per week with 50 percent overtime pay per hour. In practice these laws were effectively enforced. Labor regulations also apply to foreign and migrant workers.

The government sets occupational health and safety standards, and the law establishes other benefits such as a provident fund and maternity benefits. Implementation of the law was slow, as the government did not create the necessary regulatory or administrative structures to enforce the law's provisions. Workers did not have the right to remove themselves from dangerous work situations without fear of losing their jobs. Although the law authorizes labor officers to order employers to rectify unsafe conditions, enforcement of safety standards remained minimal.

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## PAKISTAN

Pakistan is a federal republic with a population of approximately 176 million. In 2008 civilian democratic rule was restored in the country through elections that international observers deemed competitive and reflective of the people's will. Asif Ali Zardari, the widower of assassinated Pakistan People's Party (PPP) leader Benazir Bhutto, became president and head of state on September 6, 2008. Yousuf Gilani is the prime minister and head of government. The PPP and its federal coalition partners control the executive and legislative branches of the national government and three of the four provincial assemblies.

On March 16, in the wake of large-scale demonstrations by the "Lawyers Movement" and pressure from the opposition Pakistan Muslim League-Nawaz (PML-N) party, Prime Minister Gilani reinstated Iftikhar Chaudhry as Chief Justice of the Supreme Court as well as 10 other judges then President Pervez Musharraf had removed from office in November 2007. On July 31, the Supreme Court declared unconstitutional the November 2007 emergency and provisional constitutional order. On December 16, the Supreme Court declared the National Reconciliation Ordinance (NRO) void, reopening all the cases against its beneficiaries. . The ordinance had allowed officials accused of corruption to return to the government. The Supreme Court's ruling invalidated the ordinance (thereby allowing corruption cases to resume). At year's end, a debate continued about the fate of beneficiaries, including the president, ministers, and parliamentarians. Security forces often acted independently of civilian authority.

Although the civilian government took some positive steps, the overall human rights situation remained poor. Major problems included extrajudicial killings, torture, and disappearances. Collective punishment was a problem, particularly in the Federally Administered Tribal Areas (FATA), which fall under the legal framework of the Frontier Crimes Regulation (FCR). Lengthy trial delays and failures to discipline and prosecute those responsible for abuses contributed to a culture of impunity. Poor prison conditions, arbitrary arrest, and lengthy pretrial detention re-

mained problems, as did a lack of judicial independence. Corruption was widespread within the government and police forces, and the government made few attempts to combat the problem. Rape, domestic violence, sexual harassment, and abuse against women remained serious problems. Honor crimes and discriminatory legislation affected women and religious minorities respectively. Religious freedom violations and inter-sectarian religious conflict continued. Widespread trafficking in persons, child labor, and exploitation of indentured and bonded children were ongoing problems. Child abuse, commercial sexual exploitation of children, discrimination against persons with disabilities, and lack of respect for worker rights remained concerns.

Militants launched a spring offensive in the North-West Frontier Province (NWFP), briefly occupying territory 60 miles north of the capital. Military operations to repel the militants from Malakand Division and parts of the FATA displaced approximately three million people at the peak of the crisis. By July, families from Malakand Division began to return; by year's end, approximately 1.66 million had returned to their home areas. On August 12, the Human Rights Commission of Pakistan (HRCP) released a report stating that both the government security forces and insurgents had committed human rights violations, including extrajudicial killings, during the conflict in Malakand.

During the year, military operations in the FATA and the NWFP killed approximately 1,150 civilians, and militant attacks in FATA and NWFP killed 825 more civilians. Sectarian violence in the country killed approximately 1,125 individuals. More than 65 suicide bombings throughout the country killed an estimated 970 individuals. In Balochistan, the ongoing low-level insurgency killed approximately 125 civilians, according to media reports. Ongoing battles with militants created a fluctuating number of internally displaced persons (IDPs). At year's end there were an estimated 1.2 million IDPs in the NWFP and FATA.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Reports of arbitrary or unlawful killings by government agents and politically motivated killings by independent actors continued during the year, as did arbitrary or unlawful killings of civilians in conflict (see section 1.g.).

Some targeted killings of individuals accused of crimes resulted from staged encounters and excessive physical abuse while in official custody. During the year the nongovernmental organization (NGO) Society for Human Rights and Prisoners' Aid (SHARP) reported 72 civilian deaths after encounters with police and 168 deaths in jails, an increase from the previous year. The police stated that these deaths occurred when suspects attempted to escape, resisted arrest, or committed suicide. Human rights observers, family members, and the media reported that security forces staged many of the deaths. Although the government investigated, and sometimes convicted, police officials for extrajudicial killings, lengthy trial delays and failures to discipline and consistently prosecute those responsible for abuses contributed to a culture of impunity.

On September 15, according to the New York Times, after two days of police questioning, Robert Fanish, a Christian detained on blasphemy charges, was found dead in his cell in a jail in Sialkot. Police stated that Fanish hanged himself, using a strip of material ripped from his clothing. The Joint Action Committee for People's Rights, an alliance of more than 30 human rights groups, stated that it had talked to witnesses who saw marks of torture on his body. Activists staged numerous demonstrations across the country, and on September 17, the chief minister of Punjab Province ordered an inquiry into the death. At year's end the inquiry was pending.

The HRCP, the New York Times, and several local publications reported that security forces allegedly committed 300 to 400 extrajudicial killings during counter-insurgency operations in the NWFP and Swat. On August 12, after completing a three-day fact-finding mission to Malakand Division, the HRCP released a report documenting accounts of extrajudicial killings by security forces and reports of mass graves in the conflict region.

According to Dawn and The News, 251 corpses had been found in Swat by September 1. It was uncertain from where these media organizations obtained their data. According to the HRCP report, Swat residents reported sighting mass graves in the area, including at least one in Kookarai village in Babozai tehsil (administrative division) of Swat district and another in an area between Dewlai and Shah Dheri in Kabal tehsil. According to the report, witnesses who saw mass burials said that at least in some cases the bodies appeared to be those of Taliban militants.

The HRCP acknowledged that the unconfirmed graves could have contained the remains of Taliban militants or of civilians killed in conflict operations.

According to Dawn Media and local television stations, in early August the corpses of individuals who had been extrajudicially killed began appearing in Swat, NWFP. Responsible parties have not been identified. According to Dawn, on August 24, residents found 15 bodies in a town east of Mingora, and on August 15 residents discovered 18 more bodies in different parts of Swat. The New York Times reported that on September 1, a group of soldiers arrested Akhtar Ali in his electrical shop in Mingora. Family members went to army headquarters the day after his arrest and authorities assured them that Ali would be released. The family filed a petition stating that on September 5, security forces dropped Ali's body on their doorstep. According to his family, "there was no place on his body not tortured."

On August 12, the HRCP issued a report and statement, noting: "Human rights violations by security forces can only be discouraged if the State puts in place a transparent mechanism to monitor violations both during and post-conflict and fulfills its obligation of providing justice through due process." By year's end the government had not taken steps to investigate or hold persons accountable for the killings.

There were no updates concerning the following 2008 deaths: the January death in custody of Allah Bakhsh in Khanewal, Punjab; the February deaths in custody of Irfan Khan and John Masih; the May torture of Rafique Masih by Jafar Husain in a Lahore police station; the August police torture of Falak Sher in Sheikhpura, Punjab; or the June death in custody of Idris Ahmad.

There were no developments regarding the 2008 case in which prison guards reportedly shot and killed three inmates during riots at Karachi's Malir District Jail, with a fourth inmate reportedly killed by a blunt object. At year's end there were no developments in the 2007 case of death in custody of Ali Nawaz in Karachi.

At year's end the case of the 2007 death of Supreme Court Additional Registrar Syed Hammad Raza remained open.

At year's end the case of alleged torture of Malik Zaheer in 2007 was pending in Lahore High Court. Initial investigations while he was on trial for murder indicated Zaheer died of natural causes. A subsequent investigation revealed evidence of torture on Zaheer's body, and Zaheer's relatives filed an appeal of the official findings in the Lahore High Court. At year's end the government had not arrested or indicted anyone in the case.

The inquiry into the death of Arif Bhinder, the Punjab assistant advocate general who was killed in Lahore in 2007, was in its final stages at year's end in the Lahore Anti-Terrorism Court. Authorities arrested six individuals related to the case, including two for abetment.

There were reports of politically motivated killings by political factions or unknown assailants. Examples of these cases include the following:

On April 3, assailants killed Baloch National Movement (BNM) President Ghulam Muhammad Baloch, Sher Muhammad Baloch, and Lala Munir Baloch of the Baloch Republican Party (BRP) in Turbat. According to the Asia Human Rights Commission (AHRC), 12 persons dressed in civilian clothing attacked the three BNM leaders following a court session in Terbat district. Their lawyer, Kachkol Ali, informed local police that military intelligence (and Inter Service Intelligence (ISI) personnel were responsible for the attack. Police refused to file a First Information Report (FIR). According to the AHRC report, the bodies of the three men were found on April 8 in Pikrak.

According to a July 8 HRCP report, approximately 100 political workers were killed in Karachi during the first half of the year as a result of interparty clashes. Many of the workers belonged to the Mohajir Qaumi Movement (MQM-Haqiqi), the Muttahida Qaumi Movement (MQM), the PPP, and the Awami National Party (ANP). According to the HRCP, 938 persons were killed in Karachi from January to June during incidents of political and ethnic violence, gang wars, targeted killings, police encounters, personal enmity, honor killings, and other cases. The interior minister reported that there were 256 victims of targeted killings in Karachi since July.

On August 23, in Uthal, Balochistan, assailants abducted Central Joint Secretary of the BNM Rasool Bakhsh Mengal. According to the AHRC, the BNM and other nationalist groups suspected that armed Frontier Constabulary or intelligence officials abducted Mengal and tortured him in military cells. His body was found hanging from a tree in Bela on August 31 with signs of apparent torture, including cigarette burns and words carved into his skin. His death sparked violence in Khuzdar and Makshay.

The elected civilian government remained the target of attacks, especially the coalition partner ANP in the NWFP. On February 11, a remote-control bomb attack

in Peshawar killed Alamzeb Khan, an ANP member of the provincial assembly (MPA), and injured seven others. On March 11, two suicide bombers attempted to assassinate Bashir Bilour, a senior ANP leader and senior minister in the NWFP government; he survived, but the attack killed four persons. On December 1, a suicide bomb blast in Swat killed ANP MPA Shamsheer Ali Khan and injured 11 others. Terrorists also targeted dozens of ANP activists across the NWFP for assassination.

By year's end the Sindh High Court trial was ongoing for those arrested in connection with the deaths of more than 40 political activists during demonstrations in 2007 that were planned to coincide with the arrival of then suspended Chief Justice Iftikhar Chaudhry.

There were no further updates regarding the 2007 arrest of three persons in connection with the 2007 suicide bombing that killed 11 police officers and eight civilians in Islamabad.

Police did not make any arrests in the case of two suicide bombers who killed more than 130 civilians and 11 police officers in Karachi during a procession to welcome former Prime Minister Benazir Bhutto's return in 2007.

By year's end there were no suspects in custody for the 2007 assassination of Benazir Bhutto. In July 2008 the UN agreed in principle to a government request to initiate an investigation into the attack, which also killed at least 30 of her supporters and police. Scotland Yard assisted local officials in their investigation in January 2008 but did not explore who perpetrated the attack. In July a three-member UN inquiry team headed by Chile's ambassador to the UN, Heraldo Munoz, began an inquiry into the case and visited the country. The team, mandated to "submit its report identifying facts and circumstances" of the incident, was scheduled to submit its report on December 31. In November the team requested and was granted a three-month extension to complete the inquiry.

The government did not take further steps to investigate the 2007 killing of seven persons at a political rally in Karal Chowk held by Nawaz Sharif, leader of the PML-N.

By year's end the Supreme Court had not ruled on the legality of the 2007 military assault against armed militants inside Islamabad's Red Mosque (Lal Masjid) that left 106 dead. The government did not allow the mosque to reopen an affiliated madrassa (privately run Islamic school), but allowed another, Jamia Faridia, to renew operations under government scrutiny.

Attacks on houses of worship, religious gatherings, and religious leaders linked to sectarian, religious extremist, and terrorist groups outside FATA resulted in hundreds of deaths reported during the year. The HRCP reported that through August sectarian violence killed 215 persons and injured 573. Examples of these cases include the following:

On July 31 and August 1, Muslim mobs, reportedly inspired by supporters of the banned Sipah-e-Sahba Pakistan sectarian extremist organization, attacked the Christian communities living in Gojra and Korian localities, near Toba Tek Singh, Punjab, following allegations that local Christians had desecrated the Holy Koran. The mob killed eight Christians and burned nearly 100 houses as police failed to stop the violence. The National Assembly adopted a unanimous resolution condemning the Gojra killings, and the Punjab minorities affairs minister registered a legal complaint against the participants. At year's end police had arrested 42 individuals in connection with the Gojra incident, of whom 34 were released on bail and eight remained in custody at Toba Tek Singh. In the Korian case, police arrested 54 individuals, of whom 43 were released on bail and 11 remained in jail. The provincial government initiated a program to construct new houses for members of the Christian community who lost their homes in the violence. The reconstruction program was ongoing at year's end.

By year's end authorities had not taken further action to investigate the following 2008 cases: the April beating death of Jagdish Kumar, the May killing of Adeel Masih, or the June bombing at a Shia mosque in Dera Ismail Khan, NWFP.

By year's end the government had not taken steps to address the September 2008 killings of Dr. Abdul Mannan Siddiqui and Seth Muhammad Yousuf, two Ahmadi leaders in Sindh. In September 2008 the local anchor of a religious affairs program on Geo Television, Amir Liaquat Hussain, declared that Islamic teachings necessitated the killing of members of the Ahmadi sect and prompted two religious scholars who were guests on the program to affirm his position.

*b. Disappearance.*—During the year politically motivated disappearances continued, and police and security forces held prisoners incommunicado and refused to disclose their location. SHARP reported that security forces were holding hundreds of individuals incommunicado. On August 21, Federal Minister of Interior Rehman Malik informed the media that approximately 1,291 individuals were missing in the country. According to the interior minister, a joint investigative team had been es-



tablished to probe the issue. Some disappearances were related to terrorism and national security, and human rights organizations reported many Sindhi and Baloch nationalists were among the missing. According to Amnesty International, children also disappeared with their relatives.

Disappearances of the Baloch people remained a problem during the year, with Baloch political groups demanding greater political and human rights. In December the Balochistan home department issued a list of 992 persons from the province who had been missing for several years. The HRCP reported 30 new cases of “forced disappearances” from Balochistan during the year, as illustrated in the following examples:

According to the HRCP, on February 6, security forces arrested Jaleel Rakei, a member of the BRP, during a raid on his house in Sariab Kechi Beg. He remained missing at year’s end.

On August 1, according to the AHRC, the Frontier Corps (FC) arrested Balochistan National Party members Lateef Baloch and Javed Baloch in Khuzdar. On August 3, FC officers turned them over to police. Both men showed evidence of having been tortured. Authorities reportedly forced them to make false confessions before their release.

According to the HRCP, on August 21, armed personnel of a law enforcement agency allegedly abducted Saadullah Baloch (alias M. Sadiq) in Khuzdar. Personnel at a nearby army checkpoint, upon being informed of the abduction, stated that Saad had been arrested for questioning but would soon be released. At year’s end he remained missing.

Then president and chief of army staff Musharraf’s decision in 2007 to abrogate the constitution and fire the Supreme Court effectively prevented continued action on the approximately 600 disappearance cases the court was reviewing as part of then Chief Justice Chaudhry’s efforts to have the government release or regularize the detention status of prisoners whom various security agencies held incommunicado. In November the Supreme Court resumed hearings of the missing persons’ cases, after 15 families comprising 38 persons set up camp outside the court building in Islamabad. The Supreme Court directed the Interior Ministry to furnish complete details of missing nationals and observed that law enforcement agencies made no serious effort to trace the whereabouts of missing persons. Defense for Human Right Pakistan (DHRPK) reported that since the transition to a civilian-led government, some persons newly reported as disappeared were traced to a jail within an average of three months and formally charged with a crime. Family members and attorneys have access to the prisoners in these cases. DHRPK also reported 104 new cases of disappearances from January to July.

On November 26, the Anti-Terrorism Court Rawalpindi No. 2 referred the cases of Osama bin Waheed alias Hadayat Ullah, a resident of Bhakar, and Zeeshan Jalil alias Khizar, a resident of Karachi, to district and sessions judge for their trial by an ordinary court. Wahid and Jalil had been allegedly disappeared from Karachi in 2008.

Both Waheed Kambarani and Sherdil Khan, who were seized at a restaurant in Khuzdar, Balochistan, in 2007 and held in an unknown location for a month, remained incarcerated at year’s end. The details of the charges against them remained unavailable.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and other cruel, inhuman, or degrading treatment, but there were reports that security forces, including intelligence services, tortured and abused individuals in custody. Under provisions of the Anti-Terrorism Act, coerced confessions are admissible in anti-terrorism courts. During the year the NGO SHARP reported 2,300 cases of torture by police, most of which occurred in Punjab. Observers noted that underreporting of torture was prevalent in the NWFP and Balochistan. Torture occasionally resulted in death or serious injury.

Human rights organizations reported methods including beating with batons and whips, burning with cigarettes, whipping soles of the feet, prolonged isolation, electric shock, denial of food or sleep, hanging upside down, and forced spreading of the legs with bar fetters.

Security force personnel reportedly raped women during interrogations. The government rarely took action against those responsible. Before the 2006 Women’s Protection Act, the Hudood Ordinances allowed punishments for violations of Shari’a (Islamic law), including amputation and death by stoning. There were no reports that authorities imposed such punishments during the year.

On October 6, a 10-minute video was posted on the social networking site Facebook showing army members interrogating and beating several detained civilians, some of them elderly. According to the BBC, although the date and location of the video could not be determined, conversations in the video suggest it was be-

tween June and October in Swat. Army officers kicked suspects and beat them with belts, fists, and small whips. Later, the officer in the video threatened to sever the hands and feet of one of the suspects. An army spokesman declined to comment on the video, and there was no indication the government investigated the alleged incident.

On July 9, Human Rights Watch (HRW) asked the British government to probe reports of complicity of British agencies with Pakistani counterparts in using violence against terrorism suspects in Pakistan.

By year's end the government had not taken steps to prosecute Sub Inspector Shujat Ali Malhi and other police officers responsible for the March 2008 alleged torture and rape of an unnamed 17-year-old girl in Faisalabad.

There were no developments regarding the August 2008 case of Agha Mahboob Ahmed, who was arrested on suspicion of involvement in a bank robbery and allegedly tortured at the Hyderabad Criminal Investigation Agency center.

There were no updates regarding the 2007 arrest of Hazoor Buksh Malik or the 2007 gang rape of a woman by Lahore police officers at a vehicle checkpoint.

There were no developments in the case of Mubarak Ali, who was arrested in 2007 after he submitted a complaint about a local police official. While he was in custody, police reportedly beat him, causing serious injury. After the case garnered media attention, police investigated and suspended three police personnel. The accused personnel disappeared in August, and Ali's family alleged the police allowed them to escape.

*Prison and Detention Center Conditions.*—Prison conditions were extremely poor and failed to meet international standards. Overcrowding was widespread, except for cells of wealthy or influential prisoners. According to SHARP, more than 95,000 prisoners occupied 72 jails originally built to hold approximately 36,000 persons.

Inadequate food and medical care in prisons led to chronic health problems and malnutrition for those unable to supplement their diet with help from family or friends. According to a November Global Foundation report on prisoners, 197 prisoners suffered from HIV/AIDS in prisons across Punjab, including 30 in the Central Adiala Jail. It stated that there were 55 HIV/AIDS patients in prisons across Sindh, including 21 in the Larkana jail and 34 in the Karachi Central Jail.

Foreign prisoners often remained in prison long after completion of their sentences because they were unable to pay for deportation to their home countries.

Police reportedly tortured and mistreated those in custody and at times engaged in extrajudicial killings. Christian and Ahmadi communities claimed their members were more likely to be abused. Non-Muslim prisoners generally were afforded poorer facilities than Muslim inmates and often suffered violence at the hands of fellow inmates.

Following a complaint of torture by Mirza Sarfaraaz, a death row inmate in Adiala Prison, the judiciary launched an inquiry into prison conditions and the prisons department in June 2008. The inquiry revealed that prisoners who did not pay bribes were brutalized. According to the Geo TV Web site, Adiala Jail held more than 5,000 prisoners, but the jail has a capacity of 1,994. Adiala Prison held some female prisoners whose children were living with them; there was no separate arrangement for the children. During the year the chief justice of the Supreme Court and the interior minister visited the Adiala Prison unannounced and ordered improvements in the jail's living conditions. In October on the directives of the chief justice, all the judges of district courts visited Adiala Prison. They released 42 charged with minor crimes.

In October the Daily Times reported that after the imposition of national judicial policy, authorities released 1,000 prisoners. The Punjab Home Department conducted medical tests of 32,464 prisoners in 29 prisons across the province on the directives of Chief Justice Chaudhry when he visited prisons across the country.

There were various reports of prison riots during the year. The News quoted jail officials who stated that more than 20 riots had occurred during the year in Sindh. Grievances that provoked the riots included overcrowding, deprivation of legal rights, slow disposition of cases, behavior of the jail administration, and lack of facilities.

At year's end the Sindh attorney general had not followed up on his commitment to initiate an investigation into the October 2008 police abuse of prisoners in Hyderabad Central Jail following a prisoner riot over lack of basic facilities and alleged corruption. More than 1,000 prisoners broke out of their cells and protested both the solitary confinement of 40 prisoners and basic conditions of confinement. Police injured four inmates in the clashes.

Prison officials kept juvenile offenders in the same facilities as adults but in separate barracks. Police often did not segregate detainees from convicted criminals.

Prisoners with mental illness usually lacked adequate care and were not segregated from the general prison population.

In 2005 authorities expanded the number of special women's police stations with all-female staff in response to complaints of custodial abuse of women, including rape. The Aurat Foundation reported these stations did not function properly due to lack of resources and lack of appropriate training for policewomen. Court orders and regulations prohibit male police from interacting with female suspects, but male police often detained and interrogated women at regular stations.

Although the law contains provisions for inmate release on probation, scarcity of resources made this option impossible in most cases.

The International Committee of the Red Cross (ICRC) had an agreement with authorities to allow independent visits to prisons throughout the country, but this understanding was only partially honored. The ICRC had access to the Peshawar Central Prison, where it initiated a water-sanitation improvement project. ICRC visits were not permitted to some detention sites in the NWFP and Balochistan. The ICRC suspended prison visits in Punjab in 2008, as its inspectors were not provided access to prisoners detained on certain security-related charges. Authorities at the local, provincial, or national level permitted some human rights groups and journalists to monitor prison conditions for juveniles and female inmates, but visits of prison conditions for male inmates, whose conditions were poorest, took place rarely and on an ad hoc basis.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but authorities did not always comply.

*Role of the Police and Security Apparatus.*—Police have primary internal security responsibilities for most areas of the country. Under the Police Order (Second Amendment) Ordinance of 2006, control of local police falls under the Ministry of Interior. The provincial government has the power to transfer officers from their posts, however, and district nazims (mayors) write the district police officer annual performance evaluation reports, which guide promotions.

Law and order in the FATA is administered under the FCR through the political agent, who reports to the president through the NWFP governor. In lieu of police, multiple law enforcement entities operate in the FATA. These include various tribal forces; the paramilitary Frontier Corps, which reports to the Ministry of Interior in peacetime and the army in times of conflict; the Frontier Constabulary, which patrols the area between the FATA and the NWFP; levies, which operate in some FATA agencies and report to the political agent; khassadars, which help the political agent maintain order; and lashkars, tribal militias convoked by tribal leaders to deal with temporary law and order disturbances.

The Rangers are a paramilitary organization under the authority of the Ministry of Interior.

The armed forces are responsible for external security. At times during the year, they were also assigned domestic security responsibilities.

Corruption within the police was rampant. Low salaries and poor working conditions contributed to corruption, particularly for low-level officials.

Police were known to charge fees to register genuine complaints and accepted money for registering false complaints. Bribes to avoid charges were commonplace. Individuals paid police to humiliate their opponents and to avenge personal grievances. Critics charged that the appointment of station house officers had become politicized.

Police effectiveness varied greatly by district, ranging from reasonably good to ineffective. Some members of the police committed human rights abuses or were responsive to political interests. Frequent failure to punish abuses created a climate of impunity. Police and prison officials frequently used the threat of abuse to extort money from prisoners and their families. The inspectors general, district police officers, district nazims, provincial interior or chief ministers, federal interior minister, prime minister, or courts can order internal investigations into abuses and order administrative sanctions. Executive branch and police officials can recommend and the courts can order criminal prosecution, and these mechanisms were sometimes used.

As in previous years, the Punjab provincial government conducted regular training and retraining in technical skills and protection of human rights for police at all levels. The Karachi city government reportedly gave facilities to the city's human rights officers for training. During the year at least two NGOs (Sahil and SHARP) trained police. In Punjab and the NWFP, public safety commissions continued to function poorly due to their vague mandate, according to SHARP, and due to their susceptibility to interference by the provincial executive, according to the International Crisis Group (ICG). Although district public safety committees existed in Punjab, Sindh, and a majority of districts in the NWFP and Balochistan, inadequate

staffing undermined their effectiveness. The ICG also reported these committees were subject to political influence.

Police often failed to protect members of religious minorities from societal attacks, including Christians, Ahmadis, and Shias.

*Arrest Procedures and Treatment While in Detention.*—A First Information Report (FIR) is the legal basis for any arrest. Police may initiate FIRs when complainants offer reasonable proof a crime was committed. A FIR allows police to detain a named suspect for 24 hours, after which only a magistrate can order detention for an additional 14 days, if police show such detention is material to the investigation. In practice authorities did not observe fully these limits on detention. Authorities frequently issued FIRs without supporting evidence to harass or intimidate detainees, or did not issue them when adequate evidence was provided unless the complainant paid a bribe. Police sometimes detained individuals arbitrarily without charge or on false charges to extort payment for their release. Police also detained relatives of wanted individuals to compel suspects to surrender.

Police routinely did not seek a magistrate's approval for investigative detention and often held detainees without charge until a court challenged the detention. Some women in detention were sexually abused. When requested, magistrates usually approved investigative detention without reference to its necessity. In cases of insufficient evidence, police and magistrates sometimes colluded through issuing new FIRs to continue detention beyond the 14-day period the law provides.

Courts appointed attorneys for indigents only in capital cases. Individuals frequently had to pay bribes to visit a prisoner. Foreign diplomats could meet with prisoners when they appeared in court and could usually meet with citizens of their countries in prison visits.

The district coordination officer may order preventive detention for as long as 90 days and may extend the detention for an additional 90 days with court approval. Human rights organizations charged that a number of individuals allegedly affiliated with terrorist organizations were held indefinitely in preventive detention. In corruption cases, the National Accountability Bureau (NAB) may hold suspects indefinitely provided judicial concurrence is granted every 15 days. During the year the NAB rarely exercised this power.

The law stipulates that detainees must be brought to trial within 30 days of their arrest. Under both the Hudood Ordinances and standard criminal codes, there are bailable and nonbailable offenses. Bail pending trial is required for bailable offenses and permitted at a court's discretion for nonbailable offenses with sentences of less than 10 years. In practice judges denied bail at the request of police or the community, or upon payment of bribes. In many cases trials did not start until approximately six months after the filing of charges, and in some cases individuals remained in pretrial detention for periods longer than the maximum sentence for the crime with which they were charged. SHARP estimated that approximately 55 percent of the prison population was awaiting trial.

Between March 10 and 12, security forces arrested approximately 400 members of the PML-N to prevent protesters from participating in a march and sit-in in support of the restoration to office of Iftikhar Mohammad Chaudhry, the Supreme Court chief justice, who was fired by then president and chief of army staff Musharraf in 2007. On the evening of March 14 and the morning of March 15, authorities restricted the movement of Nawaz Sharif, Aitzaz Ahsan, and several other political leaders, ostensibly for their own protection, but did not enforce the restrictions when the political leaders chose to ignore them on the afternoon of March 15. According to HRW, the Punjab and Sindh provincial governments imposed Section 144 of the Criminal Procedure Code, banning gatherings of four or more persons. Human rights organizations, including HRW, strongly criticized the arrests and restrictions on gatherings. Authorities released the detained PML-N workers after the prime minister announced on the evening of March 15 an end to Section 144 throughout the country and the release of all political prisoners.

Under the FCR in the FATA, political agents have legal authority to impose collective punishment, preventively detain individuals for as long as three years, and require "bonds" to prevent undesired activity. Authorities cited collective responsibility to detain members of fugitives' tribes, demolish their homes, confiscate or destroy their property in the tribal areas and around the country, or lay siege to a fugitive's village pending his surrender or punishment by his own tribe in accordance with local tradition. Assistant political agents, overseen by political agents and supported by tribal elders of their choosing, are legally responsible for justice in the FATA and conduct hearings according to Islamic law and tribal custom. Ongoing military operations, militant activity, and the poor security situation have undermined their ability to hold court. The usual penalties consisted of fines and prison terms of as long as 14 years. The accused have no right to legal representation or

bail. Militants in FATA and briefly in Swat imposed their version of Shari'a law in makeshift courts; their punishments included public beheadings, stonings, lashings, and fines (see section 1.g.).

Special rules apply to cases brought by the NAB or before antiterrorism courts. Suspects in NAB cases may be detained for 15 days without charge (renewable with judicial concurrence) and, prior to being charged, may be deprived of access to counsel. The NAB did not prosecute serving members of the military or judiciary. During the year the government removed NAB's authority to prosecute politicians on new charges.

Accountability courts may not grant bail; the NAB chairman has sole power to decide whether and when to release detainees. Accountability courts were established under the NAB Ordinance 1999 to consider corruption cases. Twenty-one accountability courts work under the administrative and operational control of high courts and independently of NAB. Antiterrorism courts do not grant bail if the court has reasonable grounds to believe the accused is guilty. Security forces may, without needing court approval, restrict the activities of terrorism suspects, seize their assets, and detain them for as long as one year without charges.

On December 16, the Supreme Court declared null and void the 2007 NRO, which then president Musharraf promulgated. The bill provided a mechanism for amnesty for public office holders who were charged, but not convicted, in cases filed between 1986 and 1999.

In May 2008 the government announced it had imposed a moratorium on the death penalty, although the moratorium was not enforced in practice. In March 2008 the HRCP had noted there was "strong evidence" that the death penalty was applied without regard to due process, and SHARP reported that there were an estimated 7,000 inmates on death row. In August President Zardari issued a decree making "Internet crimes" punishable by execution or life imprisonment if they caused the death of a person; the decree raised the total number of capital offenses to 28.

On July 9, authorities arrested Joseph Francis, national director of the Center for Legal Aid Assistance and Settlement (CLAAS), and denied him bail after he traveled to London while on bail in a forced conversion case. According to the Christian Study Center, authorities detained Francis for more than a week before releasing him.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; in practice, the judiciary was subject to external influences, such as street protests, at the local level. In nonpolitical cases, the media and the public generally considered the high courts and Supreme Court credible. In March in the wake of large-scale demonstrations from the Lawyers Movement and pressure from the opposition PML-N party, Prime Minister Gilani reinstated Iftikhar Chaudhry as Supreme Court Chief Justice. Gilani also reinstated 10 other judges to the Supreme Court and provincial High Courts. In doing so the prime minister restored all judges ousted by then president Musharraf in 2007 who had not yet reached retirement age. Chief Justice Chaudhry forced the resignation of all Supreme and High Court judges who had taken oath under Musharraf's Provisional Constitutional Order in 2007. The newly restored superior judiciary is independent of executive branch influence but appears to be politicized in favor of the opposition based on its rulings in high-profile cases.

Delays in justice in civil and criminal cases arose due to antiquated procedural rules, weak case management systems, costly litigation to keep a case moving in the system, and weak legal education. These problems undermined the right to effective remedy and the right to a fair and public hearing.

There are several court systems with overlapping and sometimes competing jurisdictions: criminal; civil and personal status; terrorism; commercial; family; military; and Shariat. The Federal Shariat Court, according to Article 203 of the constitution, is an appellate court that can examine and decide whether any law is repugnant to the teachings of Islam. The passage of the Women's Protection Act does not negate the possibility of the Federal Shariat Court hearing appeals in certain cases. The Federal Shariat Court could hear appeals of cases involving parts of the Hudood Ordinance not moved to the secular law provisions, including gambling, liquor possession and drinking, and fornication in the false promise of marriage.

The National Assembly's failure before a Supreme Court-imposed deadline to approve amendments to the Army Act of 1952, allowing civilians to be tried in military court, nullified these amendments. The National Assembly's failure to approve before a Supreme Court deadline amendments to the 1973 Legal Practitioners and Bar Councils Act that were seen as curtailing the independence of bar associations nullified these amendments. Both sets of amendments had been approved through or-

ders of former president Musharraf during the 2007 state of emergency and were nullified as of November 28. Neither was invoked prior to nullification.

Lower courts remained corrupt, inefficient, and subject to pressure from prominent wealthy, religious, and political figures. The politicized nature of judicial promotions increased the government's control over the court system. Unfilled judgeships and inefficient court procedures resulted in severe backlogs at both trial and appellate levels.

There were extensive case backlogs in both the lower and superior courts. According to a 2009 report published by the Law and Justice Commission of Pakistan on National Judicial Policy there were 138,945 cases pending at the superior judiciary and 1,565,926 pending with the lower courts or subordinate judiciary.

Feudal landlords in Sindh and Punjab and tribal leaders in Pashtun and Baloch areas continued to hold local council meetings (known as panchayats or jirgas), at times in defiance of the established legal system. Such councils, particularly prevalent in rural areas, settled feuds and imposed tribal penalties on perceived wrongdoers including fines, imprisonment, or even the death penalty. In Pashtun areas, such councils were held under the outlines of the Pashtun Tribal Code. Under the code, a man, his family, and his tribe are obligated to take revenge for wrongs real or perceived to redeem their honor. Frequently these disputes arose over women and land and often resulted in violence.

The traditional settling of family feuds in tribal areas, particularly those involving murder, could result in giving daughters of the accused in marriage to the bereaved.

Many tribal councils instituted harsh punishments such as the death penalty or watta-satta marriages (exchange of brides between clans or tribes). Over the past few years, there has been a growing number of reports of militants running their own courts in several tribal agencies and briefly in Swat and dispensing quick justice with little due process or transparency in their deliberations.

The AHRC reported that since 2002 more than 4,000 individuals, two-thirds of them women, have died by order of jirga courts in the country. Although the superior courts have declared these rulings illegal, the AHRC reports that some of those involved in implementing jirgas sit in parliament.

On February 15, the National Assembly endorsed a controversial peace deal with the Tehreek-e-Nafaz-e-Shariat-e-Mohammadi (TNSM) in the Malakand Division. Under the deal the government instituted changes in the judicial system for the Malakand Division largely designed to bring about swift justice, in exchange for a TNSM guarantee to end militant activity in the division. Many feared that the TNSM would exercise control over the appointment of judges for the new courts known as Qazis, although the government denied repeatedly that this would be the case. Before judicial appointments could occur, the militants violated the peace deal, expanding their activities into a larger geographic area of Malakand Division. In response the government declared the peace deal broken, and in April it launched military operations to drive out militants and reassert its control over the region. The government did not repeal the new swift justice system in the Malakand Division but did appoint well-respected judges to the new courts without consultation with the TNSM or any other extremist groups.

Militants in the Malakand Division enforced their own brand of Islamic justice until the start of the military operation in April. In March a video was released on national and international media outlets showing militants flogging a teenage girl in Swat. According to press reports, militants flogged the girl as punishment for being seen in a public bazaar with a man who was not her husband. In response a spokesman for the militants defended their right to flog women shoppers who were inappropriately dressed, saying it was permitted under Islamic law. The video's release was instrumental in building national support against militants in the Malakand Division.

*Trial Procedures.*—The civil, criminal, and family court systems provide for public trial, presumption of innocence, cross-examination by an attorney, and appeal of sentences. There are no jury trials. Defendants have the right to be present and to consult with an attorney. Defendants bear the cost of legal representation in lower courts, but a lawyer can be provided at public expense in session and appellate courts. Defendants can confront or question witnesses against them and present witnesses/evidence on their behalf. Defendants and attorneys have legal access to government-held evidence relevant to their cases. Due to the limited number of judges, heavy backlog of cases, lengthy court procedures, frequent adjournment, and political pressure, cases routinely took years, and defendants had to make frequent court appearances. A case starts over when an attorney changes.

The Anti-Terrorism Act allows the government to use special streamlined courts to try persons charged with violent crimes, terrorist activities, acts or speech designed to foment religious hatred, and crimes against the state. Cases brought be-

fore these courts were to be decided within seven working days, but judges were free to extend the period. Under normal procedures, the high courts and the Supreme Court heard appeals from these courts. Human rights activists criticized the expedited parallel system, charging it was more vulnerable to political manipulation.

Courts routinely failed to protect the rights of religious minorities. Judges were pressured to take strong action against any perceived offense to Sunni orthodoxy. The judiciary rarely heard discrimination cases dealing with religious minorities.

Laws prohibiting blasphemy continued to be used against Christians, Ahmadis, and members of other religious groups, including Muslims. Lower courts often did not require adequate evidence in blasphemy cases, which led to some accused and convicted persons spending years in jail before higher courts eventually overturned their convictions or ordered them freed.

Original trial courts usually denied bail in blasphemy cases, claiming that because defendants faced the death penalty, they were likely to flee. Many defendants appealed the denial of bail, but bail often was not granted in advance of the trial. Lower courts frequently delayed decisions, experienced intimidation, and refused bail for fear of reprisal from extremist elements.

The Federal Shariat Court is the court of first appeal in all Hudood cases that result in a sentence of more than two years. The Supreme Court has ruled that in cases in which a provincial high court decides in error to hear an appeal in a Hudood case, the Federal Shariat Court lacks authority to review the provincial high court's decision.

The Shari'a bench of the Supreme Court is the final court of appeal for Federal Shariat Court cases. A 2005 ruling allows the full Supreme Court to bypass the Shari'a bench and assume jurisdiction in such appellate cases in its own right. The Federal Shariat Court may overturn legislation it judges inconsistent with Islamic tenets, but such cases are appealed to the Shari'a bench of the Supreme Court and ultimately may be heard by the full Supreme Court.

The separate legal system in the FATA, the FCR, recognizes the doctrine of collective responsibility. Tribal leaders were responsible for justice in the FATA. They conducted hearings according to Islamic law and tribal custom. The accused have no right to legal representation, bail, or appeal. The usual penalties consisted of fines. Federal civil servants assigned to tribal agencies oversaw proceedings and could impose prison terms of as long as 14 years. Under the FCR, FATA residents may appeal judgments within the civil bureaucracy. Some observers faulted the procedures for not allowing cases to be heard on appeal by the judiciary.

Human rights NGOs expressed concern about the concept of collective responsibility, as authorities used it as a pretense to detain members of fugitives' tribes, demolish their homes, confiscate or destroy their property, or lay siege to a fugitive's village pending his surrender or punishment by his own tribe in accordance with local tradition.

Religious extremists and militants maintained parallel administrations, including justice administrations, in parts of FATA and Malakand Division under their control during the year. The militants' justice administrations administered public punishments including floggings and executions.

The Provincially Administered Tribal Areas (PATA) of the NWFP, which include parts of the former princely states of Swat, Dir, and Chitral, fall under Shari'a law. Under its provisions, judges, known as qazis, are assisted by religious scholars. On February 15, the government extended this provision to the entire Malakand Division.

Azad Kashmir has a court system independent of the country's judiciary.

Gilgit-Baltistan (formerly known as the Northern Areas) also has a separate judicial system. The Gilgit-Baltistan Self Governance Order 2009 instituted a separate judiciary, legislature, and election commission for the region. Formerly, laws of the country were extended to the Gilgit-Baltistan at the discretion of the Ministry for Kashmir and Gilgit-Baltistan. The Gilgit-Baltistan Chief Court did not have all the powers of a high court.

*Political Prisoners and Detainees.*—Some political groups claimed their members were marked for arrest based on their political affiliation or beliefs.

According to Baloch nationalist political leaders and human rights organizations, military intelligence and security forces detained 1,000 to 1,500 Baloch political prisoners since the military operation began in the province in 2004. The exact number of prisoners was unavailable because many were held incommunicado. In 2008 the government acknowledged that 1,100 of the disappeared were in its custody, and it was widely believed there were hundreds of Sindhi and Baloch nationalist leaders and activists among them (see section 1.b.).

Authorities did not take steps to hold persons accountable for the February 2008 assault, arrest, and detention of six student activists and a teacher in Lahore, the

May 2008 arrest of Chlam Baloch, or the February 2008 arrest and torture of Munir Mengal.

*Civil Judicial Procedures and Remedies.*—Persons may petition high courts to seek redress for human rights violations, and courts often take such actions. Individuals may seek redress in civil courts against government officials, including on grounds of denial of human rights in civil courts. Observers reported civil courts seldom if ever issued official judgments in such cases, and most cases were settled out of court. Although there were no official procedures for administrative redress, informal reparations were common.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law requires court-issued search warrants for property but not for persons. Police routinely ignored this requirement and at times stole items during searches. Police were seldom punished for illegal entry. In cases pursued under the Anti-Terrorism Act, security forces were allowed without a warrant to search and seize property related to the case.

Several domestic intelligence services monitored politicians, political activists, suspected terrorists, the media, and suspected foreign intelligence agents. These services included the ISI, the Intelligence Bureau, the police Special Branch, and Military Intelligence. Despite a Supreme Court order, credible reports indicated authorities routinely used wiretaps and intercepted and opened mail without the requisite court approval. They were also suspected of monitoring mobile phones and electronic correspondence.

In accordance with the Anti-Terrorism Act of 1997, the government banned the activities of and membership in several religious extremist and terrorist groups. Some of the banned groups changed their names and remained active, including Jaish e Muhammad (new name: Tehrikul Furqan & Al Rehmat Trust); Tehrik e Ja'afria Pakistan (new name: Tehrik e Islami Pakistan); and Sipah e Sihaba Pakistan (new name: Millat e Islamia Pakistan). Many of the renamed groups were subsequently banned. Lashkar e Taiba regrouped under the new name Jamaat ud-Dawa. The government seized the public assets of Jamaat ud-Dawa and ordered its accounts frozen in response to the group's designation as an alias of a Foreign Terrorist Organization under UN Security Council resolution 1267. In 2008 the government labeled Tehrik-e-Taliban Pakistan (TTP) a terrorist organization and ordered the State Bank to freeze all the organization's accounts.

Although the government generally did not interfere with the right to marry, local officials on occasion assisted influential families to prevent marriages the families opposed. The government also failed to prosecute vigorously cases in which families punished members (generally women) for marrying or seeking a divorce against the wishes of other family members. Upon conversion to Islam, women's marriages performed under the rites of their previous religion were considered dissolved, but the marriages of men who converted remained intact.

In some cases authorities detained relatives to force a family member who was the subject of an arrest warrant to surrender. NGOs alleged that intelligence personnel often harassed family members of Baloch nationalists. Collective punishment, which involved detention of relatives or members of the same tribe, took place in FATA under the FCR.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—During the year the military engaged in active combat operations to clear militants from North and South Waziristan, Malakand Division of the NWFP, and the Bajaur, Mohmand, and Khyber Agencies of the FATA. Dawn News reported that more than 3,300 persons, including personnel of law enforcement agencies and armed forces, were killed in terrorism-related incidents across the country. Newspaper reports of major incidents also showed that 1,037 persons lost their lives in 76 suicide attacks. December saw the highest number of suicide attacks, 15, which claimed 211 lives.

Due to poor security, intimidation by security forces and militants, and the control the government and security forces exercised over access by nonresidents to FATA, human rights organizations and journalists found it difficult to report on abuses in military theaters. Multiple sources reported that security forces' imprecise use of ground artillery and aerial bombardment resulted in extensive civilian casualties and collateral damage in FATA. Militants imposed fines and carried out public beheadings, public displays of dead bodies, stonings, and lashings.

A low-level insurgency continued in Balochistan. According to NGOs and media reports, at least 800 militants, approximately 125 civilians, and 91 members of the security forces died as a result of the ongoing insurgency from January through late November. According to the AHRC, more than 100 individuals were killed in July and August alone. According to the AHRC, approximately 80,000 individuals were



displaced and 1,300 disappeared from January through November. The last government-released official figures recorded the total number of deaths at 158 in 2006.

*Killings.*—In August several news agencies reported that local citizens found at least 251 corpses of suspected Taliban militants along a roadside in the Swat Valley. The HRCF alleged, based largely on interviews with victims' families, that many of the deaths were retaliatory killings by government security forces and civilians. The HRCF also alleged that security forces extrajudicially killed militants detained in combat operations.

Militants staged numerous suicide attacks during the year. On March 3, 12 gunmen attacked a visiting Sri Lankan cricket team in Lahore, killing six security personnel and wounding eight team members. Two weeks later, armed militants stormed a police training school in Lahore, killing 18 officers and wounding 12. On May 27, militants detonated a vehicle-borne improvised explosive device in front of three government office buildings in a downtown business district of Lahore, killing 26 and wounding more than 250 persons. The government blamed the TTP for the attacks.

In a 24-hour period beginning April 24, there were three suicide bombings. One bomber blew himself up at the entrance to a crowded Shia mosque near Islamabad, killing at least 26 persons. Another killed eight paramilitary security officers in Islamabad, and a third drove his vehicle into a group of civilians on the side of the road in Miram Shah, North Waziristan, killing at least eight persons, including school children. The government blamed TTP for the attacks. On June 9, armed terrorists fought their way past guards at the Pearl Continental Hotel in Peshawar and detonated a vehicle-borne improvised explosive device, killing themselves and 11 others and wounding more than 50 persons. International humanitarian aid workers were among those killed. The government blamed the TTP for the attack. On October 10, six armed militants attacked the General Headquarters of the Pakistan Army in Rawalpindi, penetrating the institution's security cordon and killing six soldiers. The TTP claimed responsibility for the attack. On October 15, militants in Lahore carried out near-simultaneous attacks on the Federal Investigation Agency (FIA) provincial headquarters, Manawan Police Training School, and the Elite Police Headquarters. The militants penetrated the security cordons of all three institutions, killing 12 police and five civilians. The TTP claimed responsibility for the attacks. On October 28, a bomb in a Peshawar market killed more than 100 persons, including women and children. In November militants killed two female teachers in an ambush near Khar, in the Bajur tribal region. On December 8, militants exploded devices in Lahore's Moon Market, killing at least 45 persons and injuring more than 100.

Sectarian killings related to the conflict were also widespread. Examples include:

In January clashes between Sunni and Shia groups in villages in the Hangu District killed 17 persons and injured 30. On February 21, a suicide bomb attack killed at least 30 persons and wounded more than 60 others during a funeral procession in Dera Ismail Khan. The blast occurred during the funeral procession for a Shia religious leader killed a day earlier. On September 8, Taliban militants shot dead four Shia schoolchildren and wounded six others in an apparent sectarian attack in Atmankhel town of Orakzai district. On June 12, following Friday prayers, a suicide bomber entered the seminary office of prominent Brailvi scholar Allama Sarfraz Naeemi and detonated an explosive device. Allama Naeemi and four followers died in the attack. Allama Naeemi had condemned Taliban activities in the country, issued religious edicts against suicide bombings and Taliban threats to the state, and supported military operations against terrorists in the Malakand Division of the NWFP. Allama Naeemi's followers claimed the TTP carried out the attack.

On September 2, two unidentified gunmen attacked the convoy of Religious Affairs Minister Hamid Seed Kazmi, killing Kazmi's bodyguard and shooting the minister in the leg. Minister Kazmi is a prominent Brailvi religious scholar and a vocal critic of the Taliban. Brailvi leaders blamed Taliban insurgents for the attack.

By year's end law enforcement had not charged anyone in the 2007 assassination of Maulana Hassan Jan, a prominent and well-respected Deobandi religious scholar who had declared suicide attacks "un-Islamic." Police arrested 13 suspects in 2007, but there were no further developments in the case.

The security situation in Balochistan remained unstable. Landmines in Balochistan killed civilians, including children, in Dera Bugti, Kohlu, Noshki, and Sui, among other areas of the province.

On March 2, a suicide bomb attack by a 15-year-old boy on a madrassa in Kili Karbala, Pishin District, Balochistan, killed six persons and wounded several others. Jamaat-Ulema-i-Islam provincial chief Maulana Muhammad Khan Shirani, Balochistan Assembly Deputy Speaker Syed Matiullah Agha, and provincial min-

isters belonging to the party who were attending a ceremony at the school escaped unharmed.

On July 31, the Balochistan Republican Army claimed responsibility for kidnapping 18 policemen and 14 laborers from the Chatter area of Naseerabad district.

There were no developments regarding the 2007 killing of Mir Balach Marri, the son of Baloch leader Nawab Khair Bux Marri. It was unknown whether he was killed in the country or in Afghanistan. In December Prime Minister Gilani announced that an inquiry would be conducted into his death.

Political violence between rival political parties continued during the year. There were 256 targeted killings in Karachi alone. Those killed included 69 members of the MQM, 60 from MQM-Haqiqi, 28 from the PPP, and 23 from the ANP and other political parties.

*Abductions.*—Criminal groups, some with ties to militant groups, engaged in extortion and kidnapping activities throughout the country. Diplomats, foreign nationals, religious minorities, and NGO workers were among those targeted.

On February 1, the head of the United Nations High Commissioner for Refugees (UNHCR) Balochistan office, John Solecki, was kidnapped on his way to work and his Pakistani driver was killed. The next day, the Balochistan Liberation United Front (BLUF) claimed responsibility for the kidnapping. On April 4, BLUF militants released Solecki after keeping him in captivity for 61 days.

On February 8, Taliban militants announced the beheading of Polish engineer Pieter Stanczak, whom they had kidnapped from the Pind Sultani area in 2008.

On June 1, suspected Taliban militants abducted 120 students and six teachers of Cadet College Razmak in North Waziristan Agency, in the Bakakhel area of Frontier Region Bannu. The students and their teachers had been traveling in four vehicles as part of a 28-vehicle convoy transporting almost 400 individuals including students, teachers, and their relatives. The army subsequently freed some students and the militants released the rest on July 4 following talks with a local jirga.

On August 21, officials confirmed the release of a French tourist, Anthonio Sarsaperla, who had been kidnapped in the Dalbandian area of Balochistan.

On September 10, masked gunmen kidnapped Thanasis Lerounis, a Greek volunteer for a humanitarian organization in northwestern Pakistan. The kidnappers did not announce any conditions for his release. At year's end he remained missing. According to media reports, the kidnappers held him captive in an unknown location in southeastern Afghanistan's Nuristan Province. As ransom, his captors demanded the release of several comrades from a Pakistani jail, \$2 million, and/or his conversion to Islam.

*Other Conflict-Related Abuses.*—Military operations created hardships for the local civilian population when militants closed key access roads and tunnels and attacked communications and energy networks, disrupting commerce and food and water distribution networks. In some areas, including Swat, security forces imposed curfews. Militants destroyed girls' schools, particularly in Swat, and forced the closure of barber shops and stores selling western CDs and videos in the FATA and the NWFP.

On February 26, gunmen ambushed a minibus carrying children to school in the NWFP, killing the driver, wounding two children, and kidnapping six others.

Dawn reported in November that approximately 200 schools were destroyed in the Swat Valley during the two-year Taliban insurgency. On October 31, militants blew up a girls' school in Khyber district, destroying the building and wounding four persons in neighboring homes. According to Agence France-Press (AFP), two explosions demolished the government high school for girls at Kari Gar village. According to AFP, the militants kidnapped a boy who watched the bombing.

*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 citizens generally were free to discuss public issues. The government often impeded criticism by monitoring political activity and controlling the media. Journalists and their families were arrested, beaten, and intimidated by militants and criminal elements, leading many to practice self-censorship.

There were numerous independent English and Urdu daily and weekly newspapers and magazines. The Ministry of Information (MOI) controlled and managed the country's primary wire service, the Associated Press of Pakistan, the official carrier of government and international news to the local media. The few small privately owned wire services practiced self-censorship. The military had its own media wing, Inter Services Public Relations (ISPR), as well as two sections to monitor the media. There were no newspapers published in the FATA. Owners of newspapers and periodicals had to receive permission from the Kashmir Council and Ministry of Kashmir Affairs to publish within Azad Kashmir. According to many observers,

these bodies were unlikely to grant permission to publications sympathetic to an independent Kashmiri cause.

In August the Daily Asaap, the most widely circulated Urdu-language newspaper in Balochistan Province, suspended publication, citing harassment from security forces. Two other newspapers in Balochistan, Daily Balochistan Express and Daily Azadi, also reported harassment by security forces. At year's end the Daily Asaap remained closed.

Foreign magazines and newspapers were available, and many maintained in-country correspondents who operated freely, although some had difficulty receiving visas allowing them to work as journalists.

The government directly owned and controlled Pakistan Television and Pakistan Broadcasting Corporation, which ran radio stations throughout the country. Both reflected government views in news coverage.

Restrictive amendments to regulatory laws for print and electronic media promulgated by former president Musharraf during the 2007 state of emergency were not enforced during the year. Private cable and satellite channels broadcast domestic news and were critical of the government, despite some self-censorship. In November, eight television channels, including KTN, Samaa, DawnNews, Dunya, Express News Geo, and Aaj TV, voluntarily developed and agreed to guidelines governing coverage of terrorist attacks.

Between January 2008 and December, according to Dawn, the MOI issued 64 legal notices to 18 private television channels for violating the country's code of conduct. The MOI issued 18 of the legal notices to Independent Media Corporation, owner of the private television channel Geo TV. The government's reasons for serving the notices included covering terrorist attacks and airing footage that showed the Taliban releasing hostages.

On March 12, cable operators in some parts of the country blocked transmission of Geo News. Independent Media Corporation claimed that operators did so on instructions from the federal government to curtail media coverage of the "Long March" by lawyers scheduled for March 14. Then information minister Sherry Rehman resigned, reportedly in protest of the blockage. Cable operators restored the channel's signal within a few hours.

On October 10, according to the Associated Press, the government blocked three TV channels, including Geo News, ARY News, and Samaa, for several hours, and blocked Express News for a short period following a Taliban attack on army headquarters in Rawalpindi. The director general of ISPR and the minister for information and broadcasting later denied ordering the stations' blockage. Several sources, including representatives from two of the channels, speculated that the government punished the stations for covering that day's attack on the army headquarters.

Private radio stations existed in major cities, but their licenses prohibited news programming. Some channels evaded this restriction by discussing news in talk shows, although they were careful to avoid most domestic political discussions. International radio broadcasts, including the BBC and the Voice of America, were available.

The Pakistan Electronic Media Regulatory Authority ordinance did not extend to the FATA or the PATA of the NWFP. Independent radio stations are allowed to broadcast in FATA with the permission of the FATA Secretariat. Militants and religious figures operated approximately 150 illegal stations in the FATA.

During the year media outlets, journalists, and journalists' families were the targets of attacks and intimidation by security forces, political parties, militants, and unidentified groups. Journalists were also abducted. Newspapers frequently criticized the government, political leaders, and military operations. Media outlets that did not self-censor were at times the targets of retribution.

In April during the military operation against militants in NWFP, Taliban warned newspapers and television channels not to publish or broadcast negative news about them. In a poster issued on April 28, Taliban warned the media of dire consequences if they did not stop "propaganda" against the struggle of Taliban "for the enforcement of Shari'a" in Malakand Division. Copies of the poster were posted outside the offices of newspapers and private television channels. On December 22, a suicide bomber attacked the Peshawar Press Club, killing four persons and injuring 17. Local journalists said the press club had received numerous threats from the Taliban.

According to an International Freedom of Expression Exchange report published in August, 11 journalists have been killed in Pakistan since 2008; the World Association of Newspapers and New Publishers reported eight journalists were killed during the year. The following cases were representative of attacks on journalists:

On January 4, a suicide bomb killed Muhammad Imran, a trainee cameraman with Express TV, and Saleem Tahir Awan, a freelance reporter with local daily

newspapers Eitedal and Apna Akhbar, in front of the Government Polytechnic College in Dera Ismail Khan in the NWFP.

Following the killing of journalist Wakil Ahmed on January 24 and an attack on a privately owned Television station within 48 hours, Reporters Without Borders urged authorities to adopt protective measures for journalists.

On February 18, unknown gunmen killed Musa Khan Khel, a reporter for Geo TV, while he was covering a peace mission in Swat by a pro-Taliban cleric. His throat was also partially slit.

On August 24, in an ambush in the Khyber Pass region near the Afghanistan border, gunmen killed Janullah Hashimzada, an Afghan journalist and Peshawar bureau chief for the television channel Shamshad, and seriously wounded his colleague Ali Khan. Other journalists who were killed included Siddique Bacha Khan of Aaj TV on August 14; Wasi Ahmed of Balochistan Express on April 16; and Raja Asad Hameed of The Nation and Waqt TV on March 26.

There were no developments regarding the November 2008 shootings of two journalists, one of whom was a Japanese national, in Peshawar after they returned from an interview with a Taliban commander in nearby Khyber Agency. There were no arrests in the 2007 killing of Makhdoom Hashmi, editor of Sindhi-language newspaper Daily Nijat. Hashmi had been critical of the policies of local feudal landlords and critical that provincial authorities had denied his requests for protection.

There were no updates regarding the 2007 case in which two unidentified men assaulted and beat the editor in chief of the South Asia News Agency, Shakeel Ahmed Turabi, due to his coverage of the Supreme Court chief justice crisis in Islamabad.

There were no updates regarding the attack on the Aaj television station and property in Karachi as the station broadcast violent demonstrations live in 2007.

There were no developments in the case of Daily Mashriq correspondent Nasarullah Afridi, whose home local militants targeted with hand grenades in 2007 for his reporting on militant activities in Khyber Agency.

The Anti-Terrorism Act prohibits the possession or distribution of material designed to foment sectarian hatred or material obtained from banned organizations. Foreign books must pass government censors before being reprinted, but in practice there were no reports of book bans during the year. Books and magazines may be imported freely but are subject to censorship for objectionable sexual or religious content.

Obscene literature, a category the government defines broadly, was subject to seizure. Television and radio stations broadcast dramas and documentaries on previously taboo subjects, including corruption, social privilege, narcotics, violence against women, and female inequality.

*Internet Freedom.*—Although there were no reports that the government limited public access to the Internet, it attempted to control some extremist and Baloch Web sites based in the country. The International Telecommunication Union estimated that there were more than 18.5 million Internet users in the country as of June, and service existed in nearly all of the country's urban and semi-urban areas.

Local sources reported that authorities continued to ban Walochwarna, a Web site that advocated independence for Balochistan. As of September 10, the Web site Balochvoice, a pro-Balochistan independence site that was previously banned, was accessible on the Internet and appeared to be operating without interference.

In November 2008 President Zardari issued the Prevention of Electronic Crimes Ordinance, stipulating that cyber terrorism resulting in a death would be punishable by the death penalty or life imprisonment.

*Academic Freedom and Cultural Events.*—The government generally did not restrict academic freedom, but the atmosphere of violence and intolerance fostered by student organizations, typically tied to political parties, continued to limit academic freedom. On some university campuses in Karachi, armed groups of students, most commonly associated with the All Pakistan Mutahidda Students Organization (affiliated with the MQM) and the Islami Jamiat Talaba (affiliated with Jamaat-e-Islami (JI), clashed with and intimidated other students, instructors, and administrators over issues such as language, syllabus content, examination policies, grades, doctrines, and dress.

These groups frequently influenced the hiring of staff, admissions to the universities, and sometimes the use of institutional funds. They generally achieved such influence through a combination of protest rallies, control of campus media, and threats of mass violence. In response, university authorities banned political activity on many campuses, but with limited effect.

The Ministry of Culture operated the Central Film Censor Board, which previewed all foreign and domestic films before exhibit in the country. In practice no movie was banned during the year.

There was no government interference on art exhibitions or other musical or cultural activities.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and freedom of association, subject to restrictions imposed by law.

*Freedom of Assembly.*—Although the constitution provides for this right, in practice the government placed selective restrictions on the right to assemble. By law district authorities can prevent gatherings of more than four people without police authorization. Separately, Ahmadis have been prohibited from holding conferences or gatherings since 1984.

In early March the government attempted to prevent planned demonstrations referred to as the “Long March” by arresting a number of lawyers and politicians. The government also prohibited demonstrations and public gatherings throughout the country and blocked access to roads to Islamabad. On March 12, protesters largely abandoned marches departing from Quetta and Karachi when police blocked their access to roads leading from those cities to Punjab. On March 15, when protesters gathered in Lahore in the morning and early afternoon in defiance of government orders, police responded with tear gas and baton charges, injuring several hundred people. By mid-afternoon, PML-N leader Nawaz Sharif defied his house arrest, leaving his residence in Lahore to join protesters at the site of the demonstration. The government abandoned its effort to disperse crowds and allowed the demonstration to proceed unhindered and to begin to march to Islamabad. In the morning of March 16, the government yielded to the protesters’ demands that Iftikhar Chaudhry be reinstated as chief justice of the Supreme Court, and the protesters abandoned their march. Police used preventive detention and excessive force against demonstrators, members of civil society, political activists, and lawyers during the Long March.

*Freedom of Association.*—The constitution provides for the right of association subject to restrictions by law. NGOs are required to register with the government. According to the federal Ministry of Social Welfare and Special Education, there were more than 100,000 NGOs working in the country; due to the fragmented legal and regulatory framework, the exact number of NGOs was not known. No prominent NGO reported registration problems with the government during the year. Some continued to operate without registering and were not prosecuted.

The NGO community continued to protest a voluntary code of conduct promulgated in 2007 by the Ministry of Social Welfare and Special Education. The code gives the government powers to regulate NGO activity, change the groups’ staff or management, and freeze the assets of organizations that do not comply. In practice, the code has not been enforced and has not impeded the work of NGOs.

Security was a problem for NGO workers due to the instability in the FATA and the NWFP and threats to organizations that promoted women’s rights. By year’s end seven NGO workers had been killed, seven had been kidnapped but were later released, and several others had received threats. In April police in the Shinkhari area of Mansehra district found the bullet-riddled bodies of four local aid workers, including three women and a man. A local police official told AFP the bodies were found in the Kund forest. In September press reports containing leaked internal government documents appeared, detailing the difficulties certain international NGOs encountered in obtaining visas for their staff. The documents indicated that security agencies blocked issuance of visas for international staff of NGOs due to concerns about their activities in country and links to a foreign government.

*c. Freedom of Religion.*—The constitution states that adequate provisions shall be made for minorities to profess and practice their religions freely, but the government limited freedom of religion in practice. Islam is the state religion, and the constitution requires that laws be consistent with Islam. The Federal Shariat court ensures that laws are consistent with Shari’a. All citizens are subject to the blasphemy laws. Freedom of speech is constitutionally subject to “any reasonable restrictions imposed by law in the interest of the glory of Islam.”

According to the HRCP, there was an increase in cases of violence against minorities during the year. Reprisals and threats of reprisals against suspected converts from Islam occurred. Members of religious minorities were subject to violence and harassment, and at times police refused to prevent such actions or charge persons who committed them, leading to an atmosphere of impunity. The constitution stipulates the president and the prime minister must be Muslim. The prime minister, federal ministers, and ministers of state, as well as elected members of the Senate and National Assembly (including non-Muslims), must take an oath to “strive to preserve the Islamic ideology,” the basis for the creation of the country.

Religious groups must be approved and registered; there were no reports that the government refused to register any group.

The law declares the Ahmadi community, which considers itself a Muslim sect, to be a non-Muslim minority. The law prohibits Ahmadis, who numbered more than two million, from engaging in any Muslim practices, including use of Muslim greetings, referring to their places of worship as mosques, reciting Islamic prayers, using specific Islamic terms, and participating in the Hajj or Ramadan fast. Ahmadis were prohibited from proselytizing, holding gatherings, or distributing literature. Government forms, including passport applications and voter registration documents, require anyone wishing to be listed as a Muslim to denounce the founder of the Ahmadi faith. According to Ahmadiyya Foreign Mission, during the year 11 Ahmadis were killed due to their faith; there were nine targeted attacks against Ahmadis that resulted in several serious injuries; 37 Ahmadis were charged under blasphemy laws; and 57 Ahmadis were charged under Ahmadi-specific laws. At year's end no Ahmadi was in prison on charges of desecration of the Koran.

The penal code calls for the death sentence or life imprisonment for anyone who blasphemes the Prophet Muhammad. The law provides for life imprisonment for desecrating the Koran and up to 10 years in prison for insulting another's religious beliefs with the intent to offend religious feelings. The latter penalty was used only against those who allegedly insulted the Prophet Muhammad. On January 22, police arrested Hector Aleem, the country director of a Christian human rights NGO, after a member of a militant Islamic organization accused him of sending a blasphemous text message from his cell phone. Although the blasphemy charges were dropped after evidence showed the text message was not sent from Aleem's cell phone, the charges of abetting blasphemy stood. A judge denied bail on April 30 and remanded Aleem into custody "for his own protection" after a religious extremist lawyer threatened his life in a court hearing, according to CLAAS. At the end of the year, Aleem remained in jail awaiting trial on charges of abetting blasphemy.

On January 28, authorities arrested five Ahmadis, including four teenage students and one adult, for carving the name of the Prophet Muhammad onto the walls of a bathroom stall at a mosque in Punjab province. According to the AHRC, no evidence suggested the five individuals were responsible, and authorities did not conduct any investigation before the arrest. The four students who allegedly defaced the stalls at the behest of the adult had no connection to the mosque and did not live nearby, and a police official said police were not aware of any substantial evidence that linked the students with the crime. According to the AHRC, the district police officer told family members of the accused that police were under pressure from religious fundamentalists to act against the students. The students were released in July.

There were no developments regarding the June 2008 case in which police charged all the residents of Rabwah in Punjab under anti-Ahmadi laws and arrested Muhammad Yunus for lighting fireworks and lamps and greeting each other, which the government considered to be preaching their faith, a crime by law.

Police closed the Ahmadi centers in August 2008 following a citizen complaint that Ahmadis were attempting to proselytize. The centers were permitted to reopen on the condition that they remove the Kalima (the recitation of the Shahada, the Islamic recitation of faith) from their centers.

On December 14, a local court acquitted and freed Christian Gulsher Masih and his daughter, Sandal Gulsher. They had been detained in October 2008 in Faisalabad after the father was accused of desecrating the Koran.

There were no developments in the 2007 case in which an Intelligence Bureau district officer ordered the arrest of five Ahmadis, including two minors, after a teacher discovered the minors carrying an Ahmadi children's magazine. After the case received wide media coverage, the charges were dropped but then re-filed in February 2007 against two adults.

By the end of the year, there were no developments in the trial of the 2007 case of a retired assistant sub-inspector who shot and killed a recent Ahmadi convert in a restaurant in Seerah, near Mandi Bahauddin in Punjab. At year's end he was incarcerated and the case was pending.

Martha Bibi, a Christian who was arrested for blasphemy in 2007, was granted bail; at year's end her case was pending in a local court.

Complaints under the blasphemy laws were used to harass rivals in business or personal disputes. Most complaints under these laws were filed against the majority Sunni Muslim community by other Sunnis. Appellate courts dismissed most blasphemy cases; the accused, however, often remained in jail for years awaiting the court's decision. Trial courts were reluctant to release on bail or acquit blasphemy defendants for fear of violence from extremist religious groups. In 2005 a law went into effect revising the complaint process and requiring senior police officials to re-

view such cases in an effort to eliminate spurious charges. According to human rights and religious freedom groups, this process was not effective because senior police officers did not have the resources to review the cases. There were no legal restrictions on Christian or Hindu places of worship. District nazims had to authorize construction after they assessed the need for a new church or temple. Religious minority groups experienced bureaucratic delays and requests for bribes—routine obstacles all religious groups faced—when they attempted to build houses of worship or to obtain land.

Islamiyyat (Islamic studies) was compulsory for all Muslim students in state-run schools. Students of other faiths were exempt from such classes; in practice, teachers forced non-Muslim students to complete Islamic studies.

*Societal Abuses and Discrimination.*—Sectarian violence between Sunni and Shia extremists continued during the year. Shias, Christians, and Ahmadis were the targets of religious violence across the country.

In April militants began attacking the Sikh population, particularly in the Qasimkhel and Ferozkhel areas of lower Orakzai in the FATA. For example, on April 13, militants kidnapped local Sikh leader Kalyan Singh, forcing the community to pay 50 million rupees (\$595,000) as a “non-Muslim tax” (jizya). The ransom was later reduced to 15 million rupees (\$178,500). The Sikh community ultimately abandoned its homes in Orakzai.

As a result of the military operation in the FATA and Malakand, hundreds of Sikh families left the affected areas and took shelter in other parts of Pakistan. The government provided relief to Sikh IDPs and by the end of the year, most of those from Malakand had returned to their homes.

On July 31 and August 1, mobs attacked Christian enclaves in Gojra and Korian in Toba Tek Singh District, Punjab, following allegations that members of the Christian community had committed blasphemy. The mobs set fire to and damaged most properties in the enclave. Eight Christians trapped in their properties died in the fires. Human rights groups claimed the district administration and police failed to take adequate steps to stop the mobs. The provincial government established an Inquiry Tribunal of the Lahore High Court to investigate the incident. The Tribunal concluded its work September 6 and submitted a report in December, warning the government against such violence in the future and recommending action against the perpetrators without discrimination. Police arrested and charged 102 individuals in connection with the riots, including the four alleged instigators who had ties to the banned Sipah-e-Sahaba extremist group. The Lahore High Court granted bail to five of the accused.

According to Pakistan Christian Post, on August 28, militants shot and killed six Christians and injured seven in the city of Quetta in Balochistan. The incident coincided with the Balochistan observance of the death anniversary of Nawab Akbar Bugti, the leader of the Bugti tribe who was killed by the Pakistani military in 2006.

The government did not address the 2008 attacks against one church, one Hindu temple, and five Ahmadi mosques in Punjab.

Since the promulgation of the Anti-Ahmadiyya Ordinance in 1984, 295 Ahmadis have faced charges, and at the end of the year two Ahmadis were in prison under the blasphemy laws.

The National Commission for Justice and Peace noted that abductions and forced conversions of Christians and Hindus were on the rise. It reported in December that 20 Christians and 21 Hindus were forced to convert to Islam during the year, of whom 15 were men, 13 women, and four children.

Authorities argued that the law prohibits minor girls’ return to non-Muslim families following their conversion to Islam, even in cases where the minor girls were abducted and then converted to Islam. Although families alleged the minor girls’ conversions and the affidavits that authorities produced to verify them were fraudulent, the authorities did not return the minor girls to their families after releasing them from their abductors.

The Hindu community continued to face harassment and demands for bribes from security forces. In April a minority minister in the Sindh Assembly claimed that 18 Hindu women had been abducted and forced to convert to Islam and that one of them was killed. He claimed that approximately 30 to 35 members of religious minorities had been kidnapped, resulting in one death.

Ahmadi leaders charged that militant Sunni mullahs and their followers sometimes staged marches through the streets of Rabwah, a predominantly Ahmadi town and spiritual center in central Punjab. Ahmadis claimed that police generally were present during the marches.

Ahmadi, Christian, Hindu, and Shia Muslim communities reported significant discrimination in employment and access to education, including government institu-

tions. These communities also faced societal violence. The National Education Policy mandated Islamic studies in schools; non-Muslim students could opt out of the course in favor of a more general ethics course. Several minority religious groups claimed the policy infringed on the religious freedom of non-Muslim students and made textbooks more biased toward Islam by removing information regarding the practices of other religions.

Although there were few Jewish citizens in the country, anti-Semitic sentiments appeared to be widespread.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; the government limited these rights in practice. The government required that foreigners obtain special permits to enter certain restricted areas, including the FATA, Balochistan, and parts of the NWFP, due to security concerns. Foreigners were required to obtain a No Objection Certificate (NOC) issued by the government to enter Azad Kashmir.

The law prohibits travel to Israel, but it was not enforced in practice. Government employees and students must obtain NOCs before traveling abroad, although this requirement rarely was enforced against students.

Persons on the Exit Control List (ECL) were prohibited from foreign travel. Although the ECL was intended to prevent those with pending criminal cases from traveling abroad, no judicial action was required for the Ministry of Interior to add a name to the ECL, and it was sometimes used to harass human rights activists or leaders of nationalist parties. Those on the list had the right to appeal to the courts for removal of their names.

The law prohibits forced exile, and no case of forced exile was reported during the year.

*Internally Displaced Persons (IDPs).*—During the year the number of IDPs fluctuated due to militant activity and military operations in the NWFP and the FATA. The population displacement first began in August 2008 from Bajaur and Mohmand Agencies in the FATA and Lower Dir District in the NWFP. In late April and early May, a larger population displacement from Lower Dir, Buner, and Swat districts in the NWFP occurred as military operations confronted a militant offensive that had extended into Buner. The total number of IDPs ultimately swelled to 2.87 million. The government and the international humanitarian assistance community worked together to ensure protection for all IDPs and access to food, shelter, medicine, water, and sanitation. The government also provided debit cards worth 25,000 rupees (\$300) to approximately 320,000 displaced families from the Malakand Division to support the return process, and cards worth 5,000 rupees (\$60) for livelihood support to approximately 21,000 displaced families from South Waziristan. There was concern that the government limited the areas of origin considered eligible for assistance or disqualified individuals whose national identity cards had problems. According to a July 16 notification by the NWFP authorities, only persons displaced as a consequence of a current or imminent army operation could be classified as IDPs. By late November, after significant returns, the IDP population was approximately 1.2 million, including recent displacements from Bajaur, Khyber, Kurram, Orakzai, and South Waziristan agencies. Most of the 1.2 million IDPs lived with host communities or in rented accommodation in the FATA and the NWFP and approximately 125,000 resided in tent camps in the NWFP.

Media reports from 2003 estimated that 1.5 million Kashmiris displaced from Indian-held Kashmir had entered the country. The law entitles Kashmiris to the same rights as full citizens.

*Protection of Refugees.*—The country is not a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, but in practice, the government in most cases provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The country is a member of the UNHCR's governing Executive Committee and cooperated with the UNHCR in protecting, assisting, and repatriating Afghan refugees.

Since 1979 the government has provided temporary protection to millions of refugees from Afghanistan. According to the government-run National Database and Registration Authority, there were approximately 1.7 million registered Afghan refugees in the country. There were no credible estimates of how many Afghans are undocumented or unregistered. The government continued to work closely with the UNHCR to provide support to this refugee population, although the Tripartite Agreement between the UNHCR and the governments of Pakistan and Afghanistan, setting the terms and conditions under which Afghan refugees can remain in Paki-



stan and the structure for the UNHCR-assisted voluntary repatriation program, expired December 31. Although the prime minister did not sign the Afghan Management Strategy by December 31, the Ministry for States and Frontier Regions (SAFRON) released a statement to the UNHCR that Pakistan would comply with the Tripartite Agreement and would not force Afghan refugees to return to Afghanistan upon expiration of their Proof of Registration (PoR) cards. SAFRON also requested that the Ministry of Interior issue instructions to provincial home departments and other authorities to prevent harassment of PoR card holders while the Management and Repatriation Strategy for Afghan Refugees in Pakistan (2010-12) was being finalized. According to the UNHCR, there were more than 80 Afghan refugee camps in the country, including 71 in the NWFP, 12 in Balochistan, and one in Punjab. Most Afghan refugees resided in urban areas.

In addition to internal displacement that resulted from the military operation in Bajaur starting in August 2008, more than 20,000 residents fled into neighboring Kunar Province in Afghanistan in 2008. The majority were believed to have returned as security allowed over the course of the year.

In October 2008 the government ordered illegal Afghan refugees resident in Bajaur to return to Afghanistan and began to deport refugees who did not return voluntarily and to arrest those who returned to Pakistan. Beginning in October, security forces reported that hundreds of militants were crossing periodically from Afghanistan into the country to commit violence.

Police in some cases demanded bribes from Afghan refugees. There were credible reports that members of the intelligence services harassed refugees. Some female refugees who accepted jobs with NGOs reported harassment from Taliban sympathizers in their own community. Refugees faced societal discrimination and abuse from local communities, which resented economic competition and blamed refugees for high crime rates and terrorism.

Although refugees did not have access to courts, the government provided access to basic health and education services, especially for Afghan refugees. Every refugee who registered with both the UNHCR and the government-run Commissionerate for Afghan Refugees was granted admission to public education facilities after filing the proper paperwork. Single women, female-led households, and children working on the streets were particularly vulnerable to abuse, including trafficking.

The country lacks a legal and regulatory framework for the management of refugees and migration. In many instances the rights of refugees and services to which Afghans can or cannot have access are open to local government or even individual interpretation. For example, the State Bank governor decided that Afghans could not have bank accounts, but the National Database and Registration Authority regularly verified for banks the identity of refugees who wished to open accounts. Although there is no legislation specifically permitting Afghans to obtain driver's licenses, Afghans drove a large percentage of the trucks in the NWFP. Afghans owned and leased property, but occasionally a city or a provincial government issued instructions to cancel all leases to Afghans. Afghans could not get jobs in government but could often get jobs in industry, although sometimes there will be a local order to fire Afghan workers. Although there are a number of Afghan schools funded by foreign assistance, Afghan children usually had no problem attending Pakistani primary schools. For older students, and particularly in cities, access was harder. Even Afghans who have grown up in Pakistan usually needed a student visa to attend university in Pakistan but could get a student visa on the basis of their refugee PoR card. Afghan refugees could avail themselves of the services of police and courts, but some, particularly the poor, were afraid to do so. In some cases of particularly abhorrent crime, the UNHCR has taken up legal cases on behalf of refugee victims.

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

The law provides the majority of citizens with the right to change their government, and the country held national and provincial elections in 2008 that brought opposition parties to power. Gilgit-Baltistan, the FATA, and Azad Jammu and Kashmir were subject to unique systems. The president retained the power to dissolve parliament, a power then president Musharraf arrogated to the presidency and codified in constitutional Article 58(2)b in 2002.

Residents of Gilgit-Baltistan did not have representation in the national parliament. On September 7, President Zardari signed the Gilgit-Baltistan Empowerment and Self-Governance Order. Under the order the formerly named Northern Areas were afforded a number of attributes of a province and renamed Gilgit-Baltistan. The first elections were held in November for the 24-member Gilgit-Baltistan Legislative Assembly, with the PPP winning the majority vote. On December 11, the

assembly elected Syed Mehdi Shah of the PPP as the first-ever chief minister of Gilgit-Baltistan, replacing direct rule by the federal government. The region has a Supreme Appellate Court headed by a chief judge, a public service commission, a chief election commissioner, and an auditor-general.

Residents of the FATA were overrepresented in the national parliament but did not have a voice in federal decision making over the tribal areas, an authority that belongs to the president. Tribal residents did not have the right to change their local government, as unelected civil bureaucrats nominally ran the tribal agencies. The elected councils in the FATA, set up in 2007 to provide local representation within the tribal areas, have not been given an active role in governing the tribal areas. The Political Parties Act does not apply to the FATA, and no political party can legally campaign or operate an office there. On August 13, President Zardari announced his intention to extend the act to the FATA; by year's end he had not signed the necessary order. Some political parties asserted that this prohibition on political party activity was void, because religious-based parties such as Jamiat Ulema-e-Islam and JI openly campaigned in the FATA despite the law.

Azad Jammu and Kashmir is subject to its own constitution that allows for a legislative assembly and a prime minister but prohibits parties and candidates from contesting elections if they do not support Kashmir's accession to the country, according to a 2006 HRW report. Despite the existence of an elected parliament and executive for Azad Jammu and Kashmir, the federal government controlled significant decision making in the area, according to HRW's report. Under the Azad Jammu and Kashmir constitution, authority over 52 critical policy areas is ceded to the Azad Jammu and Kashmir Council in Islamabad, whose numerical composition favored the federal government. The federal government can dismiss arbitrarily the elected Azad Jammu and Kashmir legislative assembly.

*Elections and Political Participation.*—On November 12, Gilgit Baltistan held its first election for a legislative assembly. The PPP won a majority. According to preliminary findings and a preelection analysis by the network of civil society organizations known as the Free and Fair Election Network (FAFEN), government interference, weak administration, procedural irregularities, and erroneous voter lists affected the election results. The HRCP observer mission reported that flaws caused by insufficient preparations marred the election. Although the election was relatively peaceful, several incidents of violence resulted in the deaths of two persons and injured at least 40.

In February 2008 the country held national parliamentary elections that brought former opposition parties into a coalition government led by the PPP under the leadership of Prime Minister Yousuf Gilani. The elections were postponed multiple times, the last of which was due to the assassination of PPP leader Benazir Bhutto in 2007. In the September 2008 indirect presidential election, Asif Ali Zardari, widower of Bhutto, became president succeeding Pervez Musharraf, who had resigned in August 2008. The PPP and its coalition partners took control of the executive and legislative branches of the national government and three of the four provincial assemblies. The PML-N took control of the Punjab provincial assembly. The PML-N, originally the PPP's largest partner in the national government, withdrew from the coalition on August 25, 2008, ostensibly due to the PML-N's insistence that judges deposed during the 2007 state of emergency be reinstated to their original positions.

International and domestic observers found the February 2008 parliamentary election competitive and noted that the results appeared to reflect the will of the voters, despite significant flaws in the process. The government permitted all existing political parties to contest the elections. The largest political parties participated. Pakistan Tehreek-e-Insaf, some Baloch parties, and several parties from the Muttahida Majlis-e-Amal coalition were among those that staged a boycott.

The government required voters to indicate their religion when registering to vote. The Ahmadi community boycotted the elections, according to the EU Election Observation Mission, because they were required to register on a separate voter roll.

The FAFEN documented intimidation of voters and political parties by security services and local landowners throughout the country before the election. In particular, their observers noted that police pressured candidates and political party workers by threatening to register cases against them. Police often reportedly did not allow rallies for opposition parties and pressured individuals to vote for the PML. The FAFEN documented cases in which intelligence services pressured candidates to withdraw.

The Election Commission of Pakistan (ECP) reportedly accredited approximately 25,000 domestic observers, the majority of whom were from the FAFEN. The EU and Democracy International were among the organizations that fielded international observation teams. In September 2008, for the first time, the ECP released

the certified results of the elections broken down by polling station, a step toward greater transparency.

The Ministry of Interior issued restrictions on political rallies beyond what already existed in the electoral code of conduct, in the wake of suicide bombings against Benazir Bhutto and other high-profile leaders.

The International Foundation for Electoral Systems noted that formal adjudication of challenges related to disputed election results was weak and that the high courts did not meet statutorily prescribed deadlines for adjudication of challenges in the majority of cases brought before them.

Petitions filed in the Lahore High Court Election Tribunal separately challenged the eligibility of PML-N leaders Nawaz Sharif to run for the National Assembly and Shahbaz Sharif to run for the Punjab Provincial Assembly. The Supreme Court dismissed both petitions during the year.

There were 60 seats in the National Assembly reserved for women, and an additional 16 women won directly elected seats in the 342-seat National Assembly. There were five women in the federal cabinet. In 2008, for the first time in the country's history, the National Assembly elected a female speaker, Dr. Fahmida Mirza. There were 128 reserved seats for women of the 758 seats in provincial assemblies. One-third of the seats were reserved for women in local councils. Provincial chief ministers named women to serve in their cabinets. In some districts, social and religious conservatives prevented women from becoming candidates.

There were 10 religious minority members in reserved seats in the National Assembly, and one served in the cabinet as the Federal Minister for Minorities. Such seats were apportioned to parties based on the percentage of seats each won in the assembly. Under the law minorities held 23 reserved seats in the provincial assemblies: eight in Punjab; nine in Sindh; three in the NWFP; and three in Balochistan.

#### *Section 4. Official Corruption and Government Transparency*

The law imposes criminal penalties for official corruption; the government did not implement the law effectively in practice, and officials frequently engaged in corrupt practices with impunity. The public perception of corruption was widespread.

Special accountability courts try corruption cases brought by the NAB, including defaults on government loans by wealthy debtors. The NAB has not targeted genuine business failures or small defaulters. Accountability courts were expected to try cases within 30 days. In accountability cases there was a presumption of guilt.

The Worldwide Governance Indicators of the World Bank reflected that corruption was a severe problem.

On December 16, the Supreme Court declared the NRO null and void, reopening all the cases against its beneficiaries. At year's end the fate of beneficiaries, including the president, ministers, and parliamentarians remained uncertain.

The NAB stopped disproportionately targeting opposition politicians for prosecution following the return of the Anti-Crime and Economic Wings of the NAB in April 2008 to the FIA, which reports to the Ministry of Interior. Then president Musharraf had transferred them from the FIA to the NAB in 2002. The NAB did not prosecute active duty members of the military or judges.

The Freedom of Information Ordinance restricts the information to which citizens may have access.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

With some exceptions a wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials of the new administration were cooperative but only somewhat responsive to the groups' views.

The government sought NGO technical cooperation, especially from international NGOs, in the fields of humanitarian relief, development, environment, election operations, and human trafficking. Human rights groups reported they generally had good access to police stations and prisons.

The government permitted international nongovernmental human rights observers to visit the country. In some instances the government did not issue visas to international NGO officials. The ICRC and many agencies of the UN had offices in the country, including UNHCR, UN Children's Fund (UNICEF), and UN Development Program. The government did not allow ICRC access to security detainees in Swat and the NWFP. The ICRC also reported difficulties in meeting freely with detainees in Balochistan, where the government blocked access, and Punjab, where the government restricted access to security-related prisoners.

The Senate and National Assembly Standing Committees on Law, Justice, and Human Rights held hearings on a range of issues, including honor crimes, police

abuse of the blasphemy law, and the Hudood Ordinance. The committees served as useful fora to raise public awareness of such issues, but their final actions generally adhered to government policy, and the committees did not have the resources to do more than perform broad oversight. The Parliamentarians' Commission for Human Rights, an inter-party caucus of parliamentarians, lobbied effectively for reform in key areas.

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

The constitution provides for equality for all citizens and broadly prohibits discrimination based on race, religion, caste, residence, or place of birth; in practice, there was significant discrimination based on each of these factors.

*Women.*—Rape, other than by one's spouse, is a criminal offense. An individual cannot be prosecuted for marital rape or for rape in a case in which a marriage between the perpetrator and victim was contracted but not solemnized. Although rape was frequent, prosecutions were rare. The Ministry of Women's Development, Social Welfare, and Special Education was charged with handling these issues, with NGO assistance. On February 11, the Federal Shariat Court invalidated a 25-year-old legal provision allowing a man accused of rape to impeach the credibility of his alleged victim by offering evidence that she was "of generally immoral character."

The Women's Protection Act (WPA) of 2006 brought the crime of rape under the jurisdiction of criminal rather than Islamic courts. Previously, under the rape provision of the Hudood Ordinance, a woman was compelled to produce four male witnesses to corroborate her charge. Under the WPA, police are not allowed to arrest or hold a woman overnight at a police station without a civil court judge's consent. In an attempt to bypass difficulties rape victims faced at police stations, a provision in the act called for a sessions judge to hear all rape cases. Women's rights NGOs continued to assert that the law introduced barriers to rape victims who did not have money or access to the courts. Courts began bringing rape cases under the WPA rather than the Hudood Ordinances.

The punishment for rape ranges from 10 to 25 years in prison and a fine at a minimum or the death penalty at a maximum. The penalty for gang rape is either death or life imprisonment, but sentences were often much less severe.

There were no reliable national statistics on rape, due to the serious under-reporting of the problem.

Police were at times implicated in rape cases. Police often abused or threatened victims and demanded they drop charges, especially when the accused had bribed police. Police demanded bribes from some victims before registering rape charges, and investigations were often superficial. NGOs reported that some police stations stopped recording rape complaints. Medical personnel did not have sufficient forensics training, which further complicated prosecutions.

On June 5, the Lahore High Court reviewed a case of alleged gang rape and murder of a 15-year-old girl. The girl, a resident of Sheikhpura, was allegedly raped by Dr. Iftikhar Ahmad along with others at Amin Hospital, then received a poisonous injection. According to police, the accused remained in custody at year's end.

According to a July 26 New York Times article, two men abducted 16-year-old Assiya Rafiq and held her for approximately eight months, during which they repeatedly raped her. When the men handed her over to police in Khanewal district, south Punjab, police officers allegedly detained and raped her for 14 days. On June 19, a local court ordered an investigation and released Rafiq. At year's end no arrests had been made, and no further action had been taken.

According to the AHRC, on October 5, five men kidnapped 16-year-old Ruby Perveen at gunpoint and gang-raped her. She was found semiconscious the next day at a bus stop in Shumali, Sargodha. Three of the alleged perpetrators—Qiaser Shahzad, Adeel Shahzad, and Irshad—were allegedly the sons of a local political party leader. Although the victim's family filed a FIR with local police, there were no arrests. Police officers claimed an out-of-court settlement was being arranged, a claim the victim's family denied. The government did not take any further action by year's end.

On November 4, a district court in Karachi heard testimony in the March 2008 gang rape case of an 18-year-old woman in the precinct of Mazar-e-Quaid. Three of the alleged perpetrators were arrested, and at year's end remained in jail awaiting trial.

There were no developments regarding the May 2008 rape case of a seven-year-old girl by two men in Gowalmandi, Lahore. A case against the suspects, one of whom was her uncle, was ongoing at the end of the year.

There were no arrests regarding the August 2008 case in which a group of men kidnapped, raped, and killed a 13-year-old schoolgirl in Rawalpindi.

Police made no arrests in the 2008 case of a woman multiple men kidnapped, raped, and severely burned with acid before killing her in Mandi Bahauddin, Punjab, nor in the 2007 case of a 17-year-old girl four men gang-raped in Shadara Town, Lahore. During the year, there were no developments in the 2007 case of then 16-year-old Nasima Labano, who at least eight men gang-raped as punishment. At year's end eight suspects remained in jail.

During the year there were no developments in the Supreme Court case brought against the men involved in the 2002 gang rape of Mukhtar Mai. In 2005 the Supreme Court ordered that the five whose original conviction the Lahore High Court overturned be rearrested and held without bail. During the year Mai lived in her village in Punjab with police protection, and the 13 men allegedly involved in the gang rape were in prison.

Domestic violence was a widespread and serious problem. Husbands reportedly beat, and occasionally killed, their wives. Other forms of domestic violence included torture and shaving. In-laws abused and harassed married women. Dowry and family-related disputes often resulted in death or disfigurement by burning or acid.

According to the Aurat Foundation, the cases of violence against women increased 13 percent from the previous year. The Aurat Foundation reported that during the year 1,384 women were killed, 1,987 were abducted, 683 committed suicide, and 928 were raped or gang-raped. Also according to the Aurat Foundation, there were 608 cases of domestic violence, 274 cases of sexual assault, 683 cases of suicide, and 50 cases of stove burning.

According to a 2008 HRCF report, 80 percent of wives in rural Punjab feared violence from their husbands, and nearly 50 percent of wives in developed urban areas admitted that their husbands beat them. The HRCF reported 52 cases of women doused with kerosene and set afire. The Aurat Foundation reported that during the year there were 53 cases of acid attacks, up from 29 in 2008.

Women who tried to report abuse faced serious challenges. Police and judges were reluctant to take action in domestic violence cases, viewing them as family problems. Police, instead of filing charges, usually responded by encouraging the parties to reconcile. Abused women usually were returned to their abusive family members. Women were reluctant to pursue charges because of the stigma attached to divorce and their economic and psychological dependence on relatives. Relatives were hesitant to report abuse for fear of dishonoring the family.

The government operated the Crisis Center for Women in Distress, which referred abused women to NGOs for assistance. There were approximately 70 district-run shelter homes and approximately 250 facilities operating as emergency shelters for women in distress, including female police stations and homes run by provincial social welfare departments and NGOs. The district-run centers provided shelter, access to medical treatment, limited legal representation, and some vocational training.

In some cases women were abused at the government-run shelters. There were no developments in the 2007 case of the man who allegedly set his 21-year-old wife on fire in Rawalpindi with assistance from his two brothers. At year's end the case of the two men police had arrested was pending in Rawalpindi District Court.

Honor killings and mutilations occurred throughout the country during the year. The Aurat Foundation reported that during the year there were 604 honor killings.

A 2005 law established penalties for honor killings. Human rights groups criticized the legislation because it allows the victim or the victim's heirs to negotiate physical or monetary restitution with the perpetrator of the crime in exchange for dropping charges, a law known as "qisas" and "diyat." Because honor crimes generally occurred within families, perpetrators were able to negotiate nominal payments and avoid more serious punishment.

On April 24, according to media reports, Alia Bibi and Azeemul Haq were shot dead in the Kala Dhaka PATA. The couple had eloped, and a jirga had subsequently condemned them to death. Alpur police arrested the couple in Shangla on February 26 and released them on bail. Soon thereafter, they were kidnapped and taken to Kala Dhaka, where the jirga enforced the execution order. A government representative said that although he regretted the killing, the jirga system was the only law in the area.

On June 28, according to Dawn, armed men, some in police uniform, attacked the home of a newlywed couple in Charsadda, killing five persons. According to the husband's relatives, some of the armed men pretended to be policemen, knocked on the door, and shot him. The bride's relatives then scaled a wall, entered the house, and began firing, killing the bride as well as her husband's father, mother, and sister. The bride's family allegedly was upset because the couple had wed against their wishes. The police made no arrests in the case.

On July 27, the Supreme Court settled the March 2008 case of Taslim Solangi, a 17-year-old girl who was allegedly the victim of a jirga-ordered honor killing. According to the AHRC, she was attacked by dogs and then her in-laws killed her. The Supreme Court concluded that no dogs had been unleashed on her.

There were no developments in the July 2008 honor killings of two teenage girls and three women in Baba Kot, Balochistan. After the case prompted media controversy and condemnation by politicians and human rights groups, the federal government and the provincial government initiated an investigation and police arrested seven suspects. At year's end the case was still pending in court.

Despite bans on handing over women as compensation for crimes committed by rival tribes (also known as "vani" or "swara"), the practice continued in Punjab and the NWFP.

Parliament outlawed forced marriages in 2007, but implementation of the law remained a problem.

The World Bank released a study in 2007 indicating that approximately one-third of marriages in rural areas were "watta satta," exchange marriages in which men marry each other's sisters. The study indicated that the reciprocal nature of the practice provided some measure of protection for women. According to the study, "women in watta satta marriages have substantially and significantly lower probabilities of marital estrangement, domestic abuse, and major depressive episodes." Human rights groups such as the HRCF criticized the practice, noting that "these marriages treat women as a commodity, and tension within one household also affects the other."

In rural Sindh landowning families continued the practice of "marriage with Koran" to avoid division of property. Property of women married to the Koran remains under the legal control of their father or eldest brother, and such women are prohibited from contact with any male older than 14. These women were expected to stay in the home and not maintain contact with anyone outside of their family.

Prostitution is illegal. Most prostitutes were victims of domestic or international trafficking and were held against their will. Police generally ignored the activity if they received bribes. Police raided brothels during the year but many continued to operate underground, particularly in larger cities.

Sexual harassment was a widespread problem. There was no law to protect women in the workplace. Press reports indicated harassment was especially high among domestic workers and nurses. Although the penal code prohibits harassment, prosecution was rare.

According to AHRC, on May 11 Maheen Usmani, a senior anchorperson for Dunya TV News in Islamabad, allegedly received two late-night phone calls from Yusuf Baig Mirza, the channel's managing director, in which he made inappropriate comments. Usmani informed the channel's director of news and chief executive officer, but no action was taken. Usmani claimed she experienced professional setbacks, and on June 15 she resigned from her position, citing "continued harassment, coercion, and highly unethical conduct of the top management of Dunya News." An internal investigation committee and the National Press Club investigated the claim, but there was no progress by year's end. Mirza filed two defamation lawsuits against Usmani, who has been approached with offers of money and jobs in exchange for dropping the case.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Young girls and women were especially vulnerable to problems related to sexual and reproductive health and rights. According to the National Committee for Maternal and Neonatal Health, only 30 percent of married women of reproductive age used any contraceptive method, and more than one-quarter of these women used traditional methods that are less effective than modern contraceptives. Few women in rural areas had access to skilled attendance during childbirth, including essential obstetric and postpartum care. Women were less likely than men to be diagnosed and treated for sexually transmitted infections, including HIV.

The law prohibits discrimination on the basis of sex, but in practice this provision was not enforced. Women faced discrimination in family law, property law, and the judicial system.

Family law provides protections for women in cases of divorce, including requirements for maintenance, and lays out clear guidelines for custody of minor children and their maintenance. Many women were unaware of these legal protections or unable to obtain legal counsel to enforce them. Divorced women often were left with no means of support and their families ostracized them. Although prohibited by law, the practice of buying and selling brides continued in rural areas. Women are legally free to marry without family consent, but women who did so were often ostracized or were the victims of honor crimes.

Inheritance law discriminates against women. Female children are entitled to one-half the inheritance of male children. Wives inherit one-eighth of their husband's estate. In practice women often received far less than their legal entitlement.

Women faced significant discrimination in employment and were frequently paid less than men for similar work. In many rural areas of the country, strong societal pressure prevented women from working outside the home. Some tribes continued the traditional practice of sequestering women from all contact with males other than relatives.

Numerous women's rights NGOs such as the Progressive Women's Association, Sehar, Struggle for Change, War against Rape, and Aurat Foundation were active in urban areas. Their primary concerns included domestic violence and honor crimes.

*Children.*—Citizenship is derived by birth within the country's territory. Reporting of births is voluntary, and records are not uniformly kept, particularly in rural areas. In lieu of a birth certificate, individuals often used school records attested by the headmaster or principal of the school or matriculation certificates, both of which identify the father and the date of birth.

The government made some progress during the year in defending children's rights and welfare through its laws and programs, but problems remained. Juveniles accused of terrorism or narcotics offenses were not protected under the Juvenile Justice System Ordinance. The Society for the Protection of the Rights of the Child (SPARC) reported children as young as 12 were arrested under the Anti-Terrorism Act. Children convicted under this act are subject to the death penalty.

Local laws do not mandate free public education, and schools generally charged tuition. Public schools, particularly beyond the primary grades, were not available in many rural areas. Parents of lower socio-economic means often chose to send children to madrassas where they received free room and board. In urban areas some parents sent children to private schools due to the lack of facilities and poor quality of education that the public system offered.

According to AFP, militants destroyed hundreds of schools, mostly girls' schools, in the northwest region of the country. For example, on November 1, militants detonated a bomb at a government high school for girls in Kari Gar village, Khyber tribal district, destroying the building and wounding four persons. In the last two years, militants destroyed approximately 200 schools in the Swat Valley alone during the Taliban insurgency.

Although boys and girls had equal access to government facilities, families were more likely to seek medical assistance for boys.

Child abuse was widespread. The NGO Lawyers for Human Rights and Legal Aid (LHRLA), reported that from January to November, 612 children were murdered, 274 sodomized, 963 kidnapped, 374 trafficked, and 1,054 reported missing.

The legal age of marriage is 18 for males and 16 for females. Despite laws barring child marriage, there was evidence it occurred. LHRLA reported 1,006 cases of forced and "vani" marriages. In March 2008 the Family Planning Association of Pakistan estimated that child marriages comprised 32 percent of marriages in the country. At a 2007 human rights seminar in Islamabad, participants noted a 12-year-old girl could be purchased for 90,000 to 200,000 rupees (\$1,140 to \$2,540) in parts of Sindh and the NWFP. In rural areas poor parents sold children as bonded laborers and sold their daughters into marriage.

In 2008 the Edhi Welfare Trust (EWT) said it rescued approximately 30 infants each month from dumpsters in Karachi and elsewhere in the country and recovered the bodies of about four times as many infants. They reported that since 1970, they had recovered 68,000 dead infants from garbage dumps. Of the infants abandoned or killed, 98 percent were girls, according to the EWT.

There were no known limits on child IDPs' access to government services, although some civil society organizations demanded improvement in these services.

Trafficking and commercial sexual exploitation of children were problems. According to Sahil, an NGO that focuses on child sexual exploitation, children were generally prostituted through the involvement of a third party rather than prostituting themselves as a means of survival.

According to media reports, Taliban militants forcibly recruited child soldiers. The Times reported on July 28 that religious militants allegedly kidnapped between 1,200 and 1,500 boys as young as 11 to be trained in Swat as suicide bombers after the government signed a peace deal with Taliban in February. In July the army rescued five teenage boys after the military offensive in Swat forced the Taliban to abandon the training camp where the boys had been held. The army set up a rehabilitation center for the rescued children. The BBC reported similar practices by Taliban militants in 2007.

The SPARC estimated that more than 150,000 children lived on the streets in urban areas in 2008.

The penal code defines statutory rape as sexual intercourse with a female younger than 16. The punishment for rape is death or imprisonment for 10 to 25 years and a fine. Gang rape is punishable by death or life imprisonment. Child pornography is illegal under general obscenity laws.

*Trafficking in Persons.*—The law prohibits domestic and international trafficking in persons, but there were reports that persons were trafficked to, from, and within the country.

The country was a significant source, transit point, and destination for trafficked persons, and internal trafficking was a serious problem reportedly involving more than one million men, women, and children. Men and women were trafficked from the country to the Middle East to work as bonded or sex laborers or in domestic servitude. The country was also a destination for women and children from Bangladesh, India, Burma, Afghanistan, Sri Lanka, Nepal, and Central Asia for commercial sexual exploitation and forced labor. Women from Bangladesh, Sri Lanka, Nepal, and Burma, and East Asian countries were trafficked through Pakistan to the Gulf. Traffickers bribed police and immigration officials to facilitate passage. Foreign victims faced societal discrimination upon repatriation.

Maximum penalties for trafficking ranged from seven to 14 years' imprisonment plus fines. The FIA Anti-Trafficking Units had primary responsibility for combating international trafficking. The government assisted other countries such as Oman, the United Kingdom, Iran, Turkey, Greece, and Australia with international investigations of trafficking.

Authorities registered approximately 4,599 human smuggling and trafficking cases during the year. This figure included trafficking cases because the FIA did not have the facilities to identify trafficking and smuggling victims. During the year authorities discovered and detained nearly 5,500 individuals attempting to travel through illegal routes. In 2008, FIA human trafficking cells estimated that 700 persons attempted to leave the country using forged or fraudulent documents.

Women and children from rural areas were trafficked internally to urban centers for commercial sexual exploitation and other forms of labor. Bonded labor of children in the brick kiln industry, carpet weaving, and in agriculture remained a serious problem. In some cases families sold children into servitude or believed they were marrying off their children or sending them for legitimate employment, but in other cases children were kidnapped.

Media reported April 4 that human smugglers had packed more than 100 Afghans into a shipping container in a bid to smuggle them to Iran; 52 of the Afghans suffocated to death and 51 others were found unconscious at Hazar Ganji Bus Terminal in Quetta. On July 27, the FIA arrested a key member of a human trafficking racket in Chachi Mohalla, Wah Cantonment Police Station jurisdiction, who allegedly was involved in the smuggling operation. At year's end the case was being processed in the Quetta court system.

In 2005 the central government opened a model shelter in Islamabad specifically for trafficking victims. There are more than 200 shelters around the country providing services to trafficking victims, including government-run camps in Sindh for released bonded laborers. During the year the government of Punjab initiated a project to eliminate bonded labor in brick kilns in Lahore and Kasur districts. The government of Sindh also initiated a project at the end of 2008 to distribute state land to poor laborers, with a focus on women, in efforts to reduce bonded labor practices. The federal government also provided temporary residence status to foreign victims of trafficking.

The federal government, in cooperation with UNICEF and the United Arab Emirates, worked to repatriate and rehabilitate children used as camel jockeys. An estimated 700 children have been repatriated through these efforts since 2005. The FIA facilitated payment of compensatory damages from the United Arab Emirates.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law provides for equality of the rights of persons with disabilities. There are employment quotas at federal and provincial levels that require public and private organizations to reserve at least 2 percent of jobs for qualified persons with disabilities. In practice, this right was only partially protected due to lack of adequate enforcement mechanisms. Families cared for most individuals who had physical and mental disabilities. In some cases criminals forced persons with disabilities into begging and took most of the proceeds they received.

Organizations that refused to hire persons with disabilities could choose to pay a fine to a disability assistance fund. This obligation was rarely enforced. The Na-



tional Council for the Rehabilitation of the Disabled provided job placement and loan facilities as well as subsistence funding. The Council also operated the Pakistan Society for the Rehabilitation of the Disabled, which provided rehabilitation, vocational training, and medical support to persons with disabilities.

On August 10, President Zardari launched the "Special Persons- Special Cards" initiative under which persons with disabilities received reduced prices for a number of services, including transportation and financial services. The initiative also undertook measures to provide them with greater physical access to public facilities.

There were no restrictions on the rights of persons with disabilities to vote or participate in civil affairs.

*National/Racial/Ethnic Minorities.*—Systematic discrimination against national, ethnic, and racial minorities is widely acknowledged privately, but insufficient data exist for clear and accurate reporting on these forms of discrimination.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual intercourse is a criminal offense; in practice the government rarely prosecuted cases. Gays and lesbians rarely revealed their sexual orientation, and there were no cases brought to the courts during the year of discrimination on the basis of sexual orientation.

Society generally shunned transvestites, eunuchs, and hermaphrodites—referred to as hijras. They often lived together in slum communities and survived by begging and dancing at carnivals and weddings. Some were also involved in prostitution. Hijras were often denied places in schools or admission to hospitals, and landlords often refused to rent or sell property to them. Their families often denied them their fair share of inherited property.

On July 14, the Supreme Court stated that hijras are equal citizens of the country and ordered provincial social welfare departments to survey and register hijras and to provide them benefits from the government's financial support mechanisms, such as the Benazir Income Support Program. On December 23, the Supreme Court ordered authorities to allow transvestites and eunuchs to identify themselves as a distinct gender and ordered the government to give national identity cards to members of the community. The Supreme Court also ordered that district administrations assist them in obtaining inheritance rights after tracing their families.

*Other Societal Violence or Discrimination.*—According to the government's National Aids Control Program (NACP), there was no discrimination based on HIV/AIDS status observed in the government service. Societal attitudes toward HIV-positive individuals were changing, but social discrimination against persons with HIV/AIDS remained. Cases of discrimination often went unreported due to the stigma against HIV/AIDS patients. The NACP estimated that there were 97,500 HIV-positive individuals in the country and that only 5 percent were reported. In addition to opening new treatment centers, the NACP held rallies and public campaigns and spoke in mosques about birth control and AIDS awareness.

#### *Section 7. Worker Rights*

According to NGOs and the Economic Survey of Pakistan, the total workforce was approximately 51.8 million. Labor groups and International Labor Organization (ILO) figures indicated that approximately 3 percent of the total estimated workforce was unionized. The constitution states that "every citizen shall have the right to form associations or unions, subject to any reasonable restriction imposed by law."

In November 2008 the parliament enacted the interim Industrial Relations Act 2008 (IRA), which went into effect in December 2008 and was set to expire in April 2010, and repealed the previous labor law, the Industrial Relations Ordinance of 2002 (IRO). Although the IRA expanded the right to form labor unions to include more labor sectors, labor groups were concerned about limited tripartite consultations in the drafting of the IRA and continued exclusions of large sectors of the workforce.

*a. The Right of Association.*—The constitution protects the right of association, but according to the 1973 Civil Servants Act, civil servants may establish associations and may not form or join trade unions. The 2008 IRA expanded the right of association to workers and employers in the private sector but continued to exclude nonprofit organizations, self-employed workers, agricultural and other informal sector workers, the more than 15,000 employees working in the country's 12 export processing zones (EPZs), and most public sector employees, including medical staff, firefighters, teachers, and state enterprise employees. Under the IRA, EPZ workers are prohibited from joining unions, bargaining collectively, or striking. The EPZ Authority is empowered to draft labor laws within the EPZs, but no such laws have been drafted. NGOs and government surveys estimated that agriculture accounted for ap-

proximately 45 percent of the labor force and other informal sectors accounted for 20 percent, rendering more than 65 percent of the labor force without the right of association. In practice the 2008 IRA was too new to judge enforcement and, given its interim nature, labor groups did not follow closely its effects.

The 2008 IRA took positive steps to decrease government control of membership and participation by eliminating the previous requirement for Collective Bargaining Agents to affiliate with a national-level registered federation. Under the IRA trade unions have the right to join any federation or confederation of their choice. Under the IRA, unlike the IRO, the Registrar of Trade Unions cannot cancel a trade union's registration. There were no reported incidents of the government dissolving a union without due process.

According to the International Trade Union Confederation (ITUC), the IRA does not articulate the rights of workers to conduct sympathy strikes and under the IRA it takes at least one month before a strike can be legally declared. The federal government has wide powers to prohibit a strike if it lasts for more than 30 days and causes "serious hardship to the community" or is "prejudicial to the national interest." In the case of public utility services, strikes may be prohibited at any time before or after the strike begins. The Anti-Terrorist Ordinance of 1999 defines illegal strikes, picketing, and other types of protests as "civil commotion," which carries a penalty of up to life imprisonment. Section 144 of the Code of Criminal Procedure also deems any gathering of four or more persons subject to police authorization, a provision that authorities use against trade union gatherings. In previous years the Essential Services (Maintenance) Act of 1952 (ESMA) had been invoked to limit or ban strikes by public sector workers and to curtail collective bargaining rights; labor groups reported that ESMA was not applied during the year.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining for some workforce sectors is protected under the 2008 IRA. Sectors not covered are the same as those excluded from Freedom of Association: nonprofit organizations, self-employed workers, agricultural laborers, other informal sector workers, and most public sector employees, including medical staff, firefighters, and teachers. The IRA prohibits employers from retaliating against workers for union activity, and any employer found to have engaged in serious violations was liable for fines but not imprisonment. In practice the IRA was not fully enforced.

The ITUC reported that employers disqualified workers from union membership by promoting them to nominal managerial status. According to ITUC, there were cases in previous years in which management resorted to intimidation, dismissal, and blacklisting to prevent unionization.

The ITUC reported in March 2008 that brick kiln bonded laborers attempted to organize in seven districts of Punjab. The largest gathering was in Lahore, with nearly 5,000 attending the event.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits slavery and all forms of forced labor. In practice the government did not enforce the prohibitions effectively, and there were numerous instances in which such practices occurred.

The Bonded Labor System (Abolition) Act of 1992 (BLAA) outlaws bonded labor, cancels all existing debts, forbids lawsuits for the recovery of such debts, and establishes a District Vigilance Committee system to implement the act. Due to technical flaws, federal and local government structural changes, and a lack of budget for implementation, the act was largely unenforced. As a result law enforcement registered bonded labor offenses under other sections of the penal code. During the year police releases of bonded laborers increased between 140 and 200 percent in areas of high incidence of bonded labor in Sindh. In Punjab there was a 10 percent increase in cases registered for forced or bonded labor offenses.

NGOs reported that more than one million persons were involved in some form of bonded labor, primarily in Sindh and Punjab. A large proportion of bonded laborers were low-caste Hindus, Christians, or Muslims of lower socio-economic class. Bonded labor was most common in agriculture and in brick, glass, carpet, and fishing industries.

Bonded laborers often were unable to determine when their debts were fully paid. Some bonded laborers returned to their former status after being freed, due to a lack of alternative employment options. Ties between landowners and brick kiln owners and influential politicians hampered effective elimination of the problem.

A 2008 Freedom House report noted that bonded laborers sometimes sold their organs, particularly kidneys, to make money to escape servitude. According to the UN's Integrated Regional Information Networks, the Sindh Institute of Urology and Transplantation conducted a survey in Punjab released in 2007 noting that 93 percent of kidney sellers needed the money to repay debts and 69 percent of sellers were bonded laborers. Despite the 2007 Human Organs and Tissues Transplant Or-

dinance, which criminalizes the practice of kidney sale and purchase, media continued to report instances during the year in which laborers sold their kidneys for as little as 84,000 rupees (\$1,000).

On October 27, Time reported that at least three landlords had held more than 150 bonded laborers against their will in Sindh Province for more than 30 days. Lawyers provided by local NGOs filed petitions in district courts for the release of the laborers, who were all in bonded employment. The laborers, a third of whom were children, were landless peasants. Sindh law enforcement secured the release of all the laborers, and criminal charges have been filed against one of the landlords.

The Ministry of Labor, Manpower and Overseas Pakistanis initiated a 123 million rupee (\$1.4 million) project during the year to combat bonded labor in brick kilns, through which it obtained national identity cards for 11,000 brick kiln workers and issued interest-free microfinance loans of 11.8 million rupees (\$140,000) to help workers pay off debts to employers or finance their work activity. The Punjab Ministry of Labor registered nearly 200 brick kilns and 6,000 workers to take steps to better regulate the industry and provided free legal aid to laborers, registering more than 150 cases in 2009.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace; however, enforcement of child labor laws was weak, and child labor remained a serious problem.

The law makes bonded labor by children punishable by as long as five years in prison and as much as 50,000 rupees (\$635) in fines. The law prohibits the employment of children younger than 14 in factories, mines, railways, rag picking, port areas, fireworks, and other hazardous occupations, and regulates their work conditions. The government has identified four occupations and 34 processes considered illegal for children, including street vending, surgical instrument manufacturing, deep sea fishing, leather manufacturing, brick making, production of soccer balls, and carpet weaving.

The law limits a child's workday to seven hours, including a one-hour break after three hours of labor, and sets permissible times of day for work and time off. No child is allowed to work overtime or at night, and a child should have one day off per week. In addition, the law requires employers to keep for labor inspectors' examination a register of children working for them. These prohibitions and regulations do not apply to family businesses or government schools. The law protects all children younger than 18 from exploitation, and defines exploitative entertainment as all activities related to human sports or sexual practices and other abusive practices. Parents who exploit their children are also liable under the law.

Enforcement was a serious problem. According to media, a government directive to ban inspection of industrial units in Punjab prevents detection of child labor. According to the HRCP and SPARC, there were 10 to 11.5 million child laborers, many of them in agriculture and domestic work. The media reported that approximately 70 percent of nonagricultural child labor took place in small workshops, complicating efforts to enforce child labor laws as, by law, inspectors may not inspect facilities employing fewer than 10 persons. The Ministry of Labor, Manpower, and Overseas Pakistanis had a small group of specialized labor inspectors empowered to inspect all facilities under the child labor law. Authorities stated that violations were immediately cited and prosecuted; in practice, enforcement efforts were not adequate to meet the scale of the problem. Inspectors have little training and insufficient resources, and are susceptible to corruption. Authorities allowed NGOs to perform inspections without interference, and SPARC noted that government officials usually cooperated with their visits.

The law allows fines of as much as 20,200 rupees (\$256) for violations of child labor laws. Authorities often did not impose penalties on violators during the year, and when they did the penalties were not a significant deterrent. Although law enforcement authorities obtained hundreds of convictions for violations of child labor laws, the fines the courts levied ranged from an average of 364 rupees (\$5) in the NWFP to an average of 7,344 rupees (\$93) in Balochistan.

Children were forced to work in the brick kiln and carpet-weaving industries as well as in agriculture as part of their family's debt obligation to feudal landowners or owners of brick kilns. In March the National Coalition Against Child Labor released a report on bonded labor in the country that stated there were 1.7 million persons in bonded labor in the agricultural sector, including children, and called for amendments to the Bonded Labour System (Abolition) Act 1992.

*e. Acceptable Conditions of Work.*—The fixed minimum wage per month was 6,000 rupees (\$76), increased in March 2008 from 4,000 (\$51). It applied only to industrial and commercial establishments employing 50 or more workers. The national min-

imum wage did not provide a decent standard of living for a worker and family and fell short of the Pakistan Workers' Federation demand for a minimum wage of 12,000 rupees (\$152) per month. Significant parts of the work force, such as those in the informal sector, domestics, and migrant workers, were not covered.

Federal law provides for a maximum workweek of 48 hours (54 hours for seasonal factories) with rest periods during the workday and paid annual holidays. These regulations did not apply to agricultural workers, workers in factories with fewer than 10 employees, domestic workers, and contractors. Additional benefits required under the Federal Labor Code include official government holidays, overtime pay, annual and sick leave, health care, education for workers' children, social security, old age benefits, and a workers' welfare fund.

Health and safety standards were poor. There was a serious lack of adherence to mine safety and health protocols. For example, mines had only one opening for entry, egress, and ventilation. Workers could not remove themselves from dangerous working conditions without risking loss of employment.

Provincial governments have primary responsibility for enforcing labor regulations. Enforcement was ineffective due to limited resources, corruption, and inadequate regulatory structures. According to the ITUC, labor inspectors exempted certain employers from inspection in Sindh and Punjab. Many workers remained unaware of their rights, especially in the informal labor sectors.

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## SRI LANKA

Sri Lanka is a constitutional, multiparty republic with a population estimated at 21 million. President Mahinda Rajapaksa, elected in 2005, and the parliament, elected in 2004, both for six-year terms, share constitutional power. The government is dominated by the president's family; two of his brothers hold key executive branch posts, defense secretary and senior advisor to the president. International observers generally characterized the 2005 national elections as free and fair; however, the Liberation Tigers of Tamil Eelam (LTTE) enforced a boycott of the presidential polls by ethnic Tamils in the north and east, and many observers believed that this affected the electoral outcome in favor of the current president. The government declared victory over the LTTE on May 18 after more than 25 years of armed conflict. While civilian authorities generally maintained effective control of the security forces, observers linked the government closely to paramilitary groups believed responsible for serious human rights violations.

The government's respect for human rights declined as armed conflict reached its conclusion. Outside of the conflict zone, the overwhelming majority of victims of human rights violations, such as extrajudicial killings and disappearances, were young male Tamils, while Tamils were estimated to be only 16 percent of the overall population. Credible reports cited unlawful killings by paramilitaries and others believed to be working with the awareness and assistance of the government, assassinations by unknown perpetrators, politically motivated killings, and disappearances. The government was credibly accused of arbitrary arrests and detentions, poor prison conditions, denial of fair public trial, government corruption and lack of transparency, infringement of freedom of movement, harassment of journalists and lawyers critical of the government, and discrimination against minorities. Human rights observers alleged that progovernment paramilitary groups and security forces participated in armed attacks against civilians and practiced torture, kidnapping, hostage-taking, and extortion with impunity. During the year there were no indications or public reports that civilian or military courts convicted any military, police, or paramilitary members for human rights abuses. In some cases the military turned over military members to the civilian judicial system for processing. The executive failed to appoint the Constitutional Council, which is required under the constitution, thus obstructing the appointment of independent representatives to important institutions such as the Human Rights Commission, Bribery Commission, Police Commission, and Judicial Service Commission.

In May the Sri Lankan Army (SLA) defeated the LTTE when the SLA captured all remaining LTTE-controlled territory and killed its leader, Velupillai Prabhakaran. During the final months of the war, the LTTE engaged in torture, arbitrary arrest, and detention; denied fair public trials; arbitrarily interfered with privacy; and denied freedoms of speech, press, assembly, and association. The LTTE prevented civilians under its control from crossing over to government-held territory by shooting and killing those attempting to escape. As the conflict intensified, the LTTE forcibly recruited both adults and children for combat and reportedly located mortars and other heavy weapons near or in civilian encampments, drawing govern-

ment military fire in the process. Until its defeat in May, the LTTE continued to organize bomb attacks in areas that it did not control, particularly in the south, targeting military, political, and civilian persons and property.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were numerous reports that the government or its agents committed arbitrary or unlawful killings, but reliable statistics on such killings by the government, its paramilitary allies, and the LTTE were difficult to obtain because past complainants were killed and families feared reprisals if they filed complaints (see section 1.g.).

Police or other security forces killed several detained suspects. For example, on August 13, police arrested M.B. Dinesh Tharanga Fernando and Dhanushka Udayanga Aponsu in Angulana. No formal charges were filed and the men's relatives were not allowed to see them. Their bodies were found the following morning with fatal gunshot wounds. The Mount Lavinia district magistrate ordered an investigation by the Criminal Investigation Division, and the government took nine members of the Angulana police force into custody as suspects.

According to official accounts, other deaths occurred when security forces took the suspects to the scenes of their alleged crimes, and shot and killed them while they allegedly were trying to escape. On March 13, six persons were arrested in connection with the killing of a schoolgirl in the Trincomalee area. Police reported that two of the six were killed in the jungle near Kanniya by LTTE forces; the police shot and killed one person who tried to escape as he was being transferred to court; and a fourth suspect died in police custody.

During the year unknown actors suspected of association with paramilitary groups reportedly assisting government military forces committed numerous killings and assaults of civilians. These included the Tamil Makkal Viduthalai Pulikal (TMVP), led by breakaway-LTTE eastern commanders Vinayagamurthi Muralitharan, alias "Karuna," and Sivanesathurai Chandrakanthan, alias "Pillaiyan," in the east as well as the Eelam People's Democratic Party (EPDP), led by Minister of Social Services and Social Welfare Douglas Devananda, in Jaffna. Other progovernment paramilitaries increasingly were active in Mannar and Vavuniya. The TMVP increasingly became a political organization but with armed and allegedly criminal elements.

There were no developments in the November 2008 case of the killing of Pillaiyan's private secretary, Kumaraswamy Nandagopan, which was allegedly carried out by supporters of rival TMVP leader Karuna.

In June the Commission of Inquiry (COI), set up under retired Supreme Court justice Udalagama to investigate high profile killings and disappearances, ceased operation. The COI did not issue a public report and reportedly investigated only seven of the 17 cases it was asked to review. One of the cases the COI did complete involved the 2006 killing of 17 local staff of the French NGO Action Against Hunger (ACF), but COI's methods raised serious concerns about its fairness. The COI reportedly determined that ACF was to blame for the deaths for having allowed their employees to work in an area where violence was likely to occur. The COI also exonerated all government security forces by saying the LTTE had killed the workers, contrary to many independent analyses of available evidence that pointed toward involvement in the killings by police, Muslim Home Guard, and Special Task Force members. Security forces visited the victims' families and asked them to sign letters blaming ACF for the deaths and calling for a foreign government to provide further compensation. It was unclear how many families had agreed to sign the letters.

A separate commission set up under retired Supreme Court justice Tillekeratne to investigate abductions, disappearances, killings, and unidentified bodies completed its mandate on December 31 with a final report to the president due in early 2010. In November the commission told the press that in many cases relatives of disappeared persons had not filed reports with the local police, hampering investigations. Other observers commented that this was likely due to mistrust of local security forces and a belief that, at best, the local police were unlikely to be of any assistance.

There was no progress on several high profile killings; for example, the January 8 killing of the chief editor of the Sunday Leader and Morning Leader newspapers, Lasantha Wickrematunga, by four assailants.

There was no investigation into the killing of a young man at a polling station in a Colombo suburb on April 25, the day of Western Provincial Council elections. Leading United Peoples Freedom Alliance candidate Duminda de Silva was involved in an altercation at a polling site in the Mount Lavinia neighborhood. De Silva's se-

curity personnel pushed him into his vehicle after he pulled out a gun, but then a shot was fired from inside the vehicle as it departed the scene, killing a young man in the crowd. The case was dropped shortly after, and no further investigation occurred.

Prior to its defeat in May, human rights groups implicated the LTTE in a number of attacks on political opponents and civilians. For example, on February 9, an LTTE female suicide bomber killed 28 persons and injured 64 others at an internally displaced persons (IDP) rescue center. Civilians accounted for 25 of those killed and 40 of those injured. On February 20, two LTTE airplanes launched a suicide attack on Colombo. One of the planes struck the Inland Revenue building, exploding on impact and killing two civilians. On March 10, a LTTE suicide bomber attacked a local mosque's parade in Akuress, Matara District, killing 15 persons and injured dozens of others, including several government ministers and local officials.

*b. Disappearance.*—Disappearances continued to be a significant problem, but declined from previous years, in particular after the end of the war. Reliable statistics on the number of disappearances were difficult to obtain, but estimates from some sources ranged from 300 to 400, with the majority occurring in the north and east. Government reports on disappearances often claimed that most cases actually involved persons who had left the country for foreign employment and had not informed family members; however, civil society organizations disputed this interpretation.

During the year the government did not publish any investigations into past disappearances aside from releasing some statistics, nor did it indict or convict anyone of involvement in disappearance-related cases. There were several high profile disappearances during the year. On May 7, four persons in a white van and wearing SLA uniforms abducted Stephen Sunthararaj, project manager at the Center for Human Rights and Development. Sunthararaj had been held by police with no charges since February and had just been released by the courts, which had ruled that there was no evidence upon which to charge him with a crime. Sunthararaj's wife received ransom demands in the weeks after his abduction, but she was not able to win his release and received no further word about her husband.

In the east credible sources linked the TMVP to the October 29 abduction of Sankarapillai Shantha Kumar, a member of the nongovernment organization (NGO) consortium in Akkaraipattu, Ampara District. Although family members filed a complaint with police, at year's end he remained missing and there was no progress on the investigation.

There were reports of disappearances during the year in connection with the conflict and resulting IDP camps (see section 1.g.).

Witnesses and victims who were released after their abductions often identified the perpetrators as Tamil-speaking armed men using white vans without license plates. The government generally failed to investigate these incidents.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law makes torture a punishable offense and mandates a sentence of not less than seven years' imprisonment. Human rights groups alleged that some security forces believed torture to be allowed under specific circumstances. Following a 2007 visit, UN Special Rapporteur (UNSR) on Torture Manfred Nowak concluded that "torture is widely practiced in Sri Lanka." No accurate, publicly released statistics on reported torture cases were available.

Civil society groups and former prisoners reported on several torture cases. For example, former detainees of the Terrorist Investigation Division (TID) at Boosa Prison in Galle confirmed earlier reports of torture methods used there. These included beatings, often with cricket bats, iron bars, or rubber hoses filled with sand; electric shock; suspending individuals by the wrists or feet in contorted positions, abrading knees across rough cement; burning with metal objects and cigarettes; genital abuse; blows to the ears; asphyxiation with plastic bags containing chili pepper mixed with gasoline; and near-drowning. Detainees reported broken bones and other serious injuries as a result of their mistreatment.

In the east and conflict-affected north, military intelligence and other security personnel, sometimes working with armed paramilitaries, carried out documented and undocumented detentions of civilians suspected of LTTE connections. The detentions reportedly were followed by interrogations that frequently included torture. There were cases reported of detainees being released with a warning not to reveal information about their arrests and threatened with rearrest or death if they divulged information about their detention. There were also reports of secret government facilities where suspected LTTE sympathizers were taken, tortured, and often killed.

Human rights groups estimated that approximately 2,400 LTTE suspects were in regular detention centers. An unknown additional number of unidentified detainees were thought to be held in police stations, the CID, the TID, army or paramilitary camps, or other informal detention facilities, with some organizations estimating this group to number as high as 1,200. Approximately 11,700 former LTTE combatants also were held by the government since the end of the conflict in detention centers near Vavuniya. Because of limited access to these detainees, few details were available about their treatment and whether such treatment met international standards. There were concerns that LTTE detainees could be abused in a manner similar to suspected LTTE sympathizers.

*Prison and Detention Center Conditions.*—Prison conditions did not meet international standards due to acute overcrowding and lack of sanitary facilities. According to prison official and civil society sources, prisons designed for approximately 10,000 inmates held an estimated 26,000 prisoners. Approximately 1,400 of these were women. Some 12,000 of these total prisoners were convicted, while the remaining 14,000 were in detention, either awaiting or undergoing trial. In some cases juveniles were not held separately from adults. Pretrial detainees were often not held separately from those convicted. In many cases prisoners were reported to be sleeping on concrete floors and often without natural light and sufficient ventilation. Female prisoners were held separately from male prisoners and in generally better conditions, but some human rights groups alleged that isolated incidents of degrading treatment, including corporal punishment, overcrowding, maltreatment, or abuse of female prisoners occurred. According to the assessment by UNSR Nowak, “the combination of severe overcrowding and antiquated infrastructure of certain prison facilities places unbearable strains on services and resources, which for detainees in certain prisons, such as the Colombo Remand Prison, amounts to degrading treatment.” Nowak also noted the absence of an independent institution responsible for monitoring conditions in detention facilities, holding private interviews, and conducting medical evaluations of detainees.

The government permitted visits to regular and remand prisons by independent human rights observers and the International Committee of the Red Cross (ICRC). The government ended ICRC access to detention camps near Vavuniya for former LTTE combatants in July and withdrew permission for the ICRC to work in the Eastern Province. The government requested the ICRC to negotiate a new, postwar mandate covering their operations throughout the country before continuing such work. The government did not provide access to any detention facilities operated by military intelligence, stating that none existed. The ICRC was not allowed to visit suspected illegal detention facilities operated by paramilitaries.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; in practice such incidents occurred. Under the arrest and detention standards imposed by the emergency regulations, the law does not clearly define what constitutes an arbitrary arrest. Data concerning arrests made during the year under the emergency regulations were fragmentary and unreliable. In addition to several hundred thousand IDPs who were unable to leave the IDP camps, an unknown number of individuals were detained at least temporarily by the government. Observers said although many were released within two days if no official detention order was produced, others were known to be detained for much longer.

Some arrests appeared arbitrary. In June police detained Chandrasiri Bandara, an astrologer, for one week without charges for negative forecasts concerning the president.

*Role of the Police and Security Apparatus.*—The inspector general of police (IGP) is responsible for the 80,000-member Sri Lanka Police Service (SLPS). The SLPS conducted civilian police functions such as enforcing criminal and traffic laws, enhancing public safety, and maintaining order. The IGP reported to the minister of defense, public security and law and order (in a separate chain of command from that of the armed forces and other military units). The 5,850-member paramilitary Special Task Force (STF) is within the structure of the SLPS, although joint operations with military units in the recent defeat of the LTTE led to questions among observers over who actually was directing the STF. There was no independent authority to investigate complaints. Senior officials in the police force handled complaints against the police. Of the police officers serving in Tamil majority areas, few were Tamil and most did not speak Tamil or English. There were 791 ethnic Tamils on the police force and 971 Muslim Tamil speakers. The government hired 50 new Tamil-speaking police in Jaffna including two women, however, there was concern by some observers that many of these were members of Tamil paramilitary groups. Impunity, particularly for cases of alleged police torture and the disappearances of civilians within High Security Zones (HSZs), was a serious problem, as was corrup-

tion. A 2007 Asian Human Rights Commission assessment cited the government's tolerance of pervasive corruption as a major reason for the police force's incapacity to investigate and prosecute cases effectively.

*Arrest Procedures and Treatment While in Detention.*—Under the law authorities are required to inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours, but in practice it often took several days and sometimes weeks or months before detained persons appeared before a magistrate. A magistrate could authorize bail or continued pretrial detention for up to three months or longer. Police do not need an arrest warrant for certain offenses, such as murder, theft, robbery, and rape. In the case of murder, the magistrate is required to remand the suspect, and only the High Court could grant bail. In all cases suspects have the right to legal representation. Counsel is provided for indigent defendants in criminal cases before the High Court and the Courts of Appeal, but not in other cases.

A number of observers complained about the slow pace of the judicial process. One observer stated that approximately 55 percent of all persons in prison were either undergoing pretrial or trial detention.

Under the emergency regulations, the armed forces have the legal authority to arrest persons, but they are required to turn suspects over to the police within 24 hours. Police could detain a person for a period of not more than one year under detention orders issued by a deputy inspector general of police or by the secretary of defense. The defense secretary extended some detentions beyond one year under the Prevention of Terrorism Act (PTA). Numerous NGOs and individuals noted that the armed forces and their paramilitary allies arrested suspected LTTE sympathizers and did not turn them over to the police, blurring the line between arrests and abductions. Credible reports alleged that security forces and paramilitaries often tortured and killed those arrested rather than follow legal safeguards.

In cases when security force personnel were alleged to have committed human rights abuses, the government generally did not seek to identify those responsible or bring them to justice. Case law generally failed to uphold the doctrine of command responsibility for human rights abuses. Human rights organizations noted that some judges appeared hesitant to convict on cases of torture because of a seven-year minimum mandatory sentence with no room for issues of severity or duress.

According to human rights organizations, obtaining medical evidence of torture was difficult, since there were fewer than 25 forensic specialists, equipment was lacking, and medical practitioners untrained in the field of torture assessment examined most torture victims. In some cases police intimidated doctors responsible for collecting evidence, and any potential victim receiving a medical examination usually was accompanied by his or her detainer, often the person who had allegedly committed the torture. At year's end there was no functioning witness protection program.

Persons convicted and undergoing appeal did not receive credit towards their original sentence for time served in prison while the appeal was ongoing. Appeals often took several years to resolve.

*Amnesty.*—The president granted amnesty to a number of military deserters on several occasions throughout the year, including more than 500 in June and more than 1,900 in July. Approximately 13 women over the age of 60 were granted amnesty to commemorate International Women's Day, including the wife of a government minister, who was serving a life term for murder.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, but in practice the judiciary at lower levels remained reliant on the executive. The president appoints judges to the Supreme Court, the High Court, and the Courts of Appeal. A judicial service commission, composed of the chief justice and two Supreme Court judges, appoints and transfers lower court judges. The Supreme Court demonstrated significant independence from the government in several decisions with regard to detentions and various actions of the executive that it found to be arbitrary. However, since 2005 the government has failed to appoint the Constitutional Council, whose function was to ensure the independence of constitutional bodies such as the Judicial Service Commission. As a result a series of important checks on executive power were absent. Judges may be removed for misbehavior or incapacity but only after an investigation followed by joint action of the president and the parliament.

There was no procedure in place to address the legal status of the approximately 11,700 former LTTE combatants held in detention centers after the end of the war.

Lawyers who defended human rights cases sometimes were under physical and verbal threats. On January 28, police officers made death threats against Amitha



Ariyaratne, a lawyer in past prominent human rights cases, and on January 30, his house was burned.

In July the Defence Ministry's official Web site called five lawyers, who were appearing for editors of *The Sunday Leader* in a case against the secretary of defense, "traitors." The Bar Association of Sri Lanka protested this as an infringement of lawyers' right and duty to provide representation. Lawyers defending journalist J.S. Tissainayagam reported receiving anonymous threats.

There was no progress in the investigation of a 2008 grenade attack on the home of J.C. Weliamuna, a local human rights lawyer.

*Trial Procedures.*—In criminal cases juries try defendants in public. Defendants are informed of the charges and evidence against them, and they have the right to counsel and the right to appeal. The government provides counsel for indigent persons tried on criminal charges in the High Court and the Courts of Appeal but not in cases before lower courts. Private legal aid organizations assisted some defendants. Juries were not used in cases brought under the PTA, but defendants in such cases had the right to appeal.

Defendants are presumed innocent. Confessions obtained by coercive means, including torture, are inadmissible in criminal courts, except in PTA cases. Defendants bear the burden of proof, however, to show that their confessions were obtained by coercion. Defendants have the right to question prosecution witnesses during their trials, and are allowed access to the prosecution's evidence. Subject to judicial review, in certain cases defendants may spend up to 18 months in prison on administrative order waiting for their cases to be heard. Once their cases came to trial, decisions usually were made relatively quickly.

The law requires court proceedings and other legislation to be available in English, Sinhala, and Tamil. In practice most courts outside of Jaffna and the northern parts of the country conducted business in English or Sinhala. A shortage of court-appointed interpreters restricted the ability of Tamil-speaking defendants to receive a fair hearing in many locations, but trials and hearings in the north were in Tamil and English. Few legal textbooks existed in Tamil.

*Political Prisoners and Detainees.*—There were no reports of persons being formally held as political prisoners or detainees. Some cases, however, such as one brought against journalist J.S. Tissainayagam under the PTA, appeared to be politically motivated.

*Civil Judicial Procedures and Remedies.*—Citizens were allowed to file fundamental rights cases to seek redress of human rights violations. The judiciary exhibited some independence and impartiality in adjudicating these types of cases, and plaintiffs were awarded damages in a number of instances. Observers cited bureaucratic inefficiencies in this system, leading to delays in the resolution of many cases, and cases filed by persons suspected of having ties to the LTTE appeared to be subject to delays much more frequently. Where damages were awarded, there were relatively few problems in enforcing the court orders.

*Property Restitution.*—Seizure of private lands by various actors remained a problem across the country and particular in the north and east. Significant amounts of land were seized during the war by the military to create security buffer zones around military bases and other high-value targets which the government called HSZ. The declaration of HSZs resulted in a number of displaced persons, particularly in the Jaffna Peninsula, and rendered inactive approximately 40 square kilometers of agricultural lands. While the government discussed reducing the size of these HSZs towards the end of the year, there was no action taken by year's end.

Paramilitary actors were often cited as being responsible for other land seizures. While a legal process exists for private landowners to contest such seizures, in practice it proved very slow, and many victims did not take advantage of it for fear of violent reprisals by those who had seized the property in question.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law provides for the right to privacy; however, the government infringed on these rights, particularly when conducting cordon and search operations in Tamil neighborhoods. The emergency regulations allowed security forces to conduct searches of property, engage in wiretapping and surveillance of private citizens with little judicial oversight. The government limited the ability of IDPs to correspond with or communicate with persons outside of the IDP camps.

When it controlled territory, the LTTE routinely interfered with the privacy of citizens by maintaining a network of informants.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Government security forces, progovernment paramilitary groups, and the LTTE used excessive force and committed abuses against civilians. During the SLA offensive against the

LTTE, several hundred thousand ethnic Tamil civilians were trapped in LTTE-held land. As the conflict reached its final months, the government declared two no-fire zones, areas into which it would not fire weapons. As the conflict progressed, the LTTE and civilians under its control were confined to an increasingly small area.

The government and the LTTE did not allow any independent observers, media, or international staff of humanitarian organizations to work in the conflict zone. Eyewitness accounts of the end of the conflict were difficult to obtain because most of the involved civilians remained confined in large IDP camps with little access to independent observers.

*Killings.*—Artillery shelling, mortar fire, and aerial bombing reportedly killed many civilians during the final five months of conflict. While only the Sri Lankan Air Force used aerial bombs, it was difficult to attribute artillery and mortar fire to one side or the other. There were frequent reports of the LTTE positioning artillery and mortar positions close to and among civilian encampments, hospitals, and churches, drawing return fire from the government. Some reports estimated that fighting in the last week of the conflict may have killed 1,000 civilians per day.

Government and other observers reported numerous occasions when the LTTE fired on civilians who attempted to flee, reportedly killing and wounding many individuals. Trapped Tamil civilians reported being afraid to cross over to the government side for fear of being subjected to killings, disappearances, and abuse by the SLA.

Progovernment paramilitary groups allegedly were used to identify, abduct, and kill suspected LTTE sympathizers or operatives immediately after the conflict and in the IDP camps.

*Abductions.*—There were reports that persons among the IDP population had disappeared on their way to an initial military checkpoint at Omanthai.

NGOs and international sources reported that paramilitaries abducted civilians from the IDP camps. Verification of such incidents was complicated by reports that large numbers of persons paid bribes to officials and others to escape the camps. Estimates on the number of persons who escaped the camps in this manner varied widely, but most observers suggested it was at least 10,000. There was no practical way to verify how many had left the camps this way, and no way to determine whether some of these numbers were not disappearance cases.

*Physical Abuse, Punishment, and Torture.*—The SLA held approximately 11,700 alleged former LTTE combatants mainly in detention centers near Vavuniya. There were several detention centers, with one set aside for women. Before the government halted access to the detainees in July, while ICRC renegotiated its operating mandate with the government, the ICRC had registered 9,500 of these detainees.

Prior to the end of the war, the LTTE and the TMVP continued to interfere with the work of international NGOs. The LTTE prevented refugees from leaving areas under its control in the north and sought to influence aid organizations in areas under its control.

*Child Soldiers.*—From January to May the LTTE dramatically increased its forced recruitment of child soldiers. Reports from the conflict zone during these months stated that both boys and girls as young as 12 were forced to join the fighting. The numbers of children killed in fighting were unknown, but the government reported 527 former LTTE child soldiers in its custody several months after the end of the war. These children were being held in government-run detention centers but were undergoing rehabilitation in accordance with international standards at year's end.

The government made significant progress towards its goal of eliminating the child soldier problem among the TMVP. By December 31, the UN Children's Fund reported that the number of child soldiers still involved in the TMVP was down to five. TMVP officials claimed they did not know where these five individuals were located, and the government was actively working to find them.

*Other Conflict-Related Abuses.*—The government consistently underestimated the number of civilians trapped behind LTTE lines, leading to a severe shortage of food and medicine shipped into the no-fire zones over the final months of fighting. Many international observers disputed the government's population estimates at the time, and some accused the government of deliberately lowering their estimates in an effort to starve the civilians out from behind LTTE lines to cause more difficulties for the LTTE soldiers. The government often prevented medicine, including all anesthetics, from being delivered to trapped civilians by ICRC, stating that it would instead be used by LTTE forces to treat wounded soldiers. It was not possible to determine how many civilians may have died as a result of this shortage of food and medicine.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press but in practice this was not always supported. The government owned the country's largest newspaper chain, two major television stations, and a radio station. However, private owners operated a variety of independent newspapers, journals, and radio and television stations. The government imposed no political restrictions on the establishment of new media enterprises. While foreign media outlets operated in the country, some foreign journalists had their visas revoked or were asked to leave the country when they reported on sensitive issues in a manner that the government disliked.

Media freedom deteriorated in the Colombo area, as well as in the conflict-affected north and east. Most journalists practiced self-censorship. National and international media freedom organizations and journalists' associations expressed concern over media freedom and were sharply critical of the Defense Ministry's role in harassing and intimidating journalists and their lawyers.

Senior government officials repeatedly accused critical journalists of treason and often pressured editors and publishers to run stories that portrayed the government in a positive light. Lawyers who defended journalists were also threatened and pressured by defense and government officials.

In addition to high-profile killings, such as the death of the newspaper editor Lasantha Wickrematunga, media personnel were often subject to threats and harassment during the year. Statements by government and military officials contributed to an environment in which journalists who published articles critical of the government felt under threat.

On January 2, men in an unregistered white van burned the broadcasting station of MTV/MBC in Pannipitiya. The police failed to respond to requests for additional security, and four days later armed men, arriving in unregistered vans, destroyed the studio with guns, clubs, grenades, and a claymore mine. Five suspects were arrested two weeks later, but the magistrate granted them bail and alleged misconduct in the police investigation of the attack. No progress had been made in the case at year's end.

On February 27, three men in civilian clothes and three men in police uniforms in a van abducted Nadesapillai Vithyatharan, editor of the *Sudar Oli*, a leading Tamil-language newspaper. After telephone calls by foreign diplomats to senior authorities, police announced that he had been arrested. Authorities held Vithyatharan until April 25, and then released him without charges.

On June 1, the head of the Sri Lanka Working Journalists Association Poddala Jayantha was abducted and severely beaten near Colombo. The attack seemed to have been encouraged by the government, which had aired photos of journalists—including a close-up of Jayantha—during comments by the Inspector General of Police Jayantha Wickramaratne, who called journalists traitors who would be dealt with.

On August 30, a court convicted and sentenced journalist J.S. Tissainayagam to 20 years in prison with hard labor. A number of witnesses testified that his articles did not incite intercommunal tension, the primary charge against him, and there were doubts about the source of changes made to his written confession. His conviction represented the first time that a journalist had been convicted under the PTA for their writings. As international criticism of Tissainayagam's conviction mounted, government officials made new accusations against him but offered no new evidence and filed no additional formal charges.

On several occasions during the year, copies of the *Economist* newsmagazine were confiscated by government authorities at the international airport, preventing their release to the magazine's local distributor. This occurred when articles in the issue were critical of the government.

On July 9, the government officially reactivated the Press Council Act of 1973. This act, which includes power to fine and/or impose punitive measures including lengthy prison terms, proscribed the publishing of articles that discussed internal communications of the government and decisions of the cabinet, matters relating to the military that could affect national security, and details of economic policy that could lead to artificial shortages or speculative price increases. Several demonstrations by journalists took place throughout the latter part of the year against the resurrection of this council.

*Internet Freedom.*—There appeared to be some limited government restrictions on access to the Internet, including suspicions that the government was behind the blocking of Internet access to several Tamil news Web sites, including the pro-LTTE TamilNet.

High-speed Internet was available in major cities and towns, with more widespread use among younger populations. Cell phone use, including text-messaging, was high across a broad spectrum of society. The government did not restrict short message service (SMS) or cell phone usage.

According to International Telecommunication Union statistics for 2008, approximately 5.8 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no reports of government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the government generally respected this right in practice; however, some restrictions existed. For example, the 2005 emergency regulations gave the president the power to restrict meetings, assemblies, and processions. The law states that rallies and demonstrations of a political nature could not be held when a referendum was scheduled, but the government generally granted permits for demonstrations, including those by opposition parties and minority groups.

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right in practice; however, some restrictions existed, such as those under the emergency regulations. The government often used informants to target individuals for arrests and interrogation based on their association.

Before the end of the conflict, the LTTE did not allow freedom of association in the areas it controlled.

*c. Freedom of Religion.*—Although there was no state religion, the law accords Buddhism a foremost position. It also provides for the right of members of other faiths to practice their religions freely, and the government generally respected this right in practice. The majority of citizens were followers of Buddhism. The Ministry of Religious Education and Moral Uplift Islamic section monitored the doctrinal content of Islamic teachings at mosques in an effort to prevent “extremist” viewpoints from gaining traction among Muslim congregations. The ministry also administered an Islamic charity funded by new mosque registrations. The Buddhist section did not regulate the content of Buddhist religious observances. All new religious buildings are required to register with the government.

Foreign clergy could work in the country, but the government sought to limit the number of foreign religious workers given temporary work permits. Permission usually was restricted to denominations registered with the government.

While the courts generally upheld the right of Christian groups to worship and to construct facilities to house their congregations, local authorities manipulated rules to prevent registration of new Christian denominations or construction or expansion of worship facilities. The Supreme Court ruled in 2003 that although the constitution supported the right of individuals to practice any religion, it did not support the right to proselytize.

#### Societal Abuse and Discrimination

In July two persons were killed and 12 injured when a disagreement between two Muslim congregations over methods of ritual sacrifice erupted into violence. Persons attached to a mosque in Galle set a mosque in Beruwela on fire. Police arrested a number of persons involved, and a court case was ongoing at year's end.

On July 5, an estimated 100 persons and 50 Buddhist monks forcibly entered the Assemblies of God church in Dickwella, Matara District to try to halt their activities.

In July the Vineyard Community Church in Makandura, Kurunegala District, was attacked on several occasions. This included a single individual attacking two persons and a subsequent attack on July 12 by several others. The building was vandalized and fliers against the church were distributed. Several complaints were filed with the police, and a court case was in progress at the end of the year.

There were reports that smaller, less-established Christian churches faced building code restrictions when attempting to build new places of worship, requiring such things as a petition signed by a majority of neighbors allowing such a building.

The Jewish population remained very small, and there were no reported cases of anti-Semitism.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law grants every citizen “freedom of movement and of choosing his residence” and “freedom to return to the country.” In practice, however, the government severely restricted this right on multiple occasions. The additional checks on travelers from the north and the east and on movement to and in

Colombo remained in effect. Colombo police refused to register Tamils from the north and the east, as required by Emergency Regulation 23, sometimes forcing them to return to their homes in areas affected by the conflict.

The government required Tamils who wished to move within the country, especially those Tamils living in Jaffna, to obtain special passes issued by security forces. Ethnic Tamils' national identification cards were the only cards printed in both Sinhala and Tamil. For most of the year, citizens of Jaffna were required to obtain permission from the army's civil affairs unit, or in some cases from the EPDP, to leave Jaffna, but the requirement was lifted in December. Curfews imposed by the army also restricted the movement of Jaffna's citizens, although this curfew was reduced after the end of the war.

Security forces at army checkpoints in Colombo frequently harassed Tamils. After the government assumed effective control of the east, both the government and the TMVP operated checkpoints that impeded the free movement of residents, especially Tamils.

The government maintained a partial closure of the A-9 highway leading to Jaffna for most of the year, requiring special authorization from security forces for any vehicles traveling the road north of Vavuniya. These restrictions were largely lifted in December, although there were still restrictions in place at the end of the year on private vehicles traveling on the A-9 at night. The government continued security checks on movements in all directions north of a key junction near Medawachiya, although they were less stringent by the end of the year than existed during and immediately following the war.

Limited access continued near military bases and the HSZ where civilians could not enter. The HSZs extended in an approximately 2.5-mile radius from the fences of most military camps. Some observers claimed the HSZs were excessive and unfairly affected Tamil agricultural lands, particularly in Jaffna. There were allegations after the war ended that the government was allowing non-Tamil businesses to locate inside HSZs, taking over valuable land before local citizens were allowed to return.

The government did not expel citizens from one part of the country to another, nor did it forcibly exile any citizens abroad. However, over a dozen journalists were in self-exile due to safety fears with many having received physical threats.

In July the UN High Commissioner for Refugees (UNHCR) reaffirmed his recommendation that Tamils from and in the north be eligible for asylum status given the human rights situation in the country. As of October the number of Tamil refugees from the country living in South India included approximately 76,000 in refugee camps, and an additional 100,000 living outside of camps among the Indian population. Some Tamil refugees returned to Sri Lanka over the course of the year. Tamil refugees were also present in significant numbers in the United Kingdom, Canada, Australia, and other countries.

*Internally Displaced Persons (IDPs).*—The country had a significant population of IDPs which was caused both by past and recent conflicts. Almost all IDPs were ethnically Tamil although approximately 80,000 were Tamil-speaking Muslims who had been displaced from Jaffna by the LTTE. Large-scale returns of IDPs began in the final three months of the year, in particular of the approximately 280,000 more recently displaced persons who had been held in IDP camps since the end of the war in May. Of that group, approximately 155,000 had been returned to their home districts by the end of the year. Many of these were not able to return to their actual homes due to significant damage from the war or uncleared land mines. An additional 108,000 remained mostly in the government-run Manik Farm IDP camps near Vavuniya by year's end. The Manik Farm camps had originally held approximately 250,000 IDPs, without freedom of movement, from the end of the war in May until late October. IDPs remaining in Manik Farm were not given freedom of movement until December, when a system of temporary exit passes was implemented for those who had not yet been returned to their districts of origin and remained in Manik Farm. Some observers said this exit pass system still did not qualify as freedom of movement.

In addition to this group of newer IDPs, there were an estimated 200,000 previously displaced Tamils. Most of these IDPs were displaced prior to the last big offensive in 2008, and were living either with relatives or friends. It was unclear at the end of the year how or when they might be returned to their places of origin, or if any would prefer to stay where they currently were after being displaced for many years.

The government-run Manik Farm IDP camp provided basic assistance for IDPs, along with a number of other much smaller camps scattered throughout the north and east of the country. The government did not allow open access to Manik Farm, although access for UN agencies and some NGOs improved as the year progressed.

During the months of detention at Manik Farm and other smaller camps, international observers and local legal experts questioned the legality of this long-term detaining of IDPs under the law, including the emergency regulations and the PTA. These laws require that any detainee be specifically named and detained pending further investigations, and informed of the reason for the detention.

The government accepted assistance from NGOs and international actors for the IDP camps but management of the camps and control of assistance was under the military rather than civilian authorities. Food, water, and medical care were all insufficient in the first several weeks after the end of the war, but by July the situation had stabilized and observers reported that basic needs were being met.

In June the military withdrew from inside the camps but continued to provide security around the barbed wire-enclosed perimeter. There were allegations of crimes and sexual assaults inside the camps, both by outside persons and by other IDPs, but access was not allowed to independent observers to evaluate these reports or to determine if there was significant variance in the number of such crimes over the level expected for a non-refugee population of similar size.

The government released IDPs arbitrarily and did not effectively coordinate with local or international aid agencies who were asked to provide assistance on short notice. The government failed to coordinate with military personnel in the IDPs' home locations. In September several small groups of IDPs were released from Manik Farm but were detained for several weeks in closed "transit" camps until the local military officials had rescreened them.

Among the long-term displaced were tens of thousands of Muslims evicted from Jaffna in 1990 by the LTTE, many of whom remained in camps in Puttalam. During the year the government announced these Muslims would be allowed to return to Jaffna. A small number had reportedly moved back by the end of the year, but many others were either unaware yet of the change in policy, or had younger family members who felt more at home in Puttalam. The government had not permitted other IDPs, primarily Tamils, to return home because their places of origins were declared HSZs, despite announcements during the year that these HSZs would soon be reduced or eliminated.

The government cooperated with the UNHCR and other humanitarian organizations in assisting IDPs, however, it ended access for ICRC's protection work in IDP camps in July, requesting that a new, postwar operating mandate be negotiated before such work could be resumed. By year's end this negotiation was not yet complete, leaving the ICRC unable to provide protection support in the IDP camps.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, the laws do not provide for the granting of asylum or refugee status, and the government had not established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

*Stateless Persons.*—The 2003 Grant of Citizenship to Persons of Indian Origin Act recognized the Sri Lankan nationality of previously stateless persons, particularly Hill Tamils. The government made limited progress towards naturalizing and providing citizenship documentation to stateless persons. By December approximately 30,000 Hill Tamils, versus 70,000 at the beginning of 2008, lacked identity cards and citizenship documents. Those lacking identity cards remained at higher risk for arbitrary arrest and detention. Reliable sources estimated that approximately 70 such persons were arrested under Emergency Regulations by October. It was not known how many of those persons remained detained at year's end.

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

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

*Elections and Political Participation.*—The president, elected in 2005 for a six-year term, holds executive power, while the 225-member parliament, elected in 2004, exercises legislative power.

The EU Election Observation Mission described the 2005 presidential election as generally satisfactory. The LTTE enforced a boycott of the polls and conducted seven grenade attacks in the north and east. As a result, less than 1 percent of voters in the north were able to exercise their right to vote. Persistent allegations of a pre-election agreement and bribe between the Rajapaksa campaign and the LTTE to suppress Tamil votes remained. A parliamentary investigation of these allegations

was opened in 2007, but Soori Yarachchi, the member of parliament who was placed in charge of the investigation, was killed in a car accident in 2008, and the investigation did not advance any further.

On August 8, the government held municipal council elections in Jaffna. While there were few reports of election-related violence or overt fraud, ethnic Tamil-based parties not aligned with the government faced severe restrictions on traveling to Jaffna to campaign prior to the election. EPDP candidates ran under the governing coalition's party symbol and enjoyed frequent campaign visits from top government officials, who announced major infrastructure projects and the reduction of security restrictions while speaking at campaign events.

During provincial council elections held in Uwa Province on August 8, and the Southern Province on October 10, there were widespread allegations that government officials used state resources, including vehicles, offices, and state employees in their personal and party campaigns. For a number of months, several opposition parties were prevented by security forces from visiting the large Manik Farm IDP camps, while figures from government allied parties were under no such restrictions.

There were 13 women in the 225-member parliament, five female ministers, and two women out of 11 justices on the Supreme Court. There were 34 Tamils and 25 Muslims in the parliament. There was no provision for or allocation of a set number or percentage of political party positions for women or minorities.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials in all three branches of the government frequently engaged in corrupt practices with impunity.

The tendering and procurement process for government contracts was not transparent, leading to allegations of corruption by the losing bidders. Senior officials served as corporate officers of several quasi-public corporations, including Lanka Logistics and Technologies, which the government established in 2007 and designated as the sole procurement agency for all military equipment. Critics alleged that large kickbacks were paid during the awarding of certain defense contracts. In 2007 the government used state pension funds to set up a new budget airline, Mihin Air, with many of the same officials serving as corporate officers. On May 1, Mihin Air went bankrupt, but the current budget allocated several million dollars to restart operations.

In 2008 the Supreme Court found then treasury secretary P.B. Jayasundera, guilty of a violation of procedure in the awarding of a large contract for the expansion of the Port of Colombo. The court barred him from holding the treasury position. In June after President Rajapaksa named a new Supreme Court chief justice, the Supreme Court allowed Jayasundera to proceed with a fundamental rights case protesting the original decision. The Supreme Court then overturned the previous decision and allowed Jayasundera to be reinstated as secretary of the treasury.

The Commission to Investigate Allegations of Bribery or Corruption received 3,224 complaints, of which 1,035 were under investigation at year's end.

There was no law providing for public access to government information.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups continued to investigate and publish their findings on human rights cases despite increasing government restrictions and physical threats to their work. The government often criticized local NGOs critical of government actions, failed to respond to requests for assistance, and put pressure on those who sought such assistance. For example, the government failed to investigate a death threat in August against one prominent civil society leader and instead opened an investigation of those who signed a public petition calling for an investigation.

During the conflict the government and the LTTE allowed only limited operations by NGOs within the conflict zone, mainly to bring food and medical shipments to civilians and to evacuate the wounded and sick to safety. During the last few weeks of the conflict, neither side ceased hostilities long enough to allow the assistance to enter or the wounded to leave the conflict zone.

After the conflict the government sought to limit the role of the ICRC and requested it to withdraw from the Eastern Province. At year's end the ICRC continued in discussions with the government over its mandate.

The government continued to refuse the request by the UNHCR for an expanded mission and an independent presence in the country. The Ministry of Defense, other

government officials, and diplomatic missions abroad regularly accused human rights NGOs and UN bodies of bias against the government.

International personnel of NGOs often had trouble getting visa renewals to continue working in the country. The government canceled the visas of two employees of UN agencies after they made public remarks perceived to be critical of the government.

By statute the Sri Lanka Human Rights Commission (SLHRC) had wide powers and resources and could not be called as a witness in any court of law or be sued for matters relating to its official duties. However, in practice the SLHRC rarely used its powers. The SLHRC did not have enough staff or resources to process its caseload of pending complaints, and it did not enjoy the full cooperation of the government. From January to September, 116 cases were reported to the SLHRC Jaffna Branch. While all the cases underwent an initial investigation, by October only 11 cases were resolved, and the remaining 105 were pending. The SLHRC had a tribunal-like approach to investigations and declined to undertake preliminary inquiries in the manner of a criminal investigator. In 2007 the International Coordinating Committee of National Human Rights Institutions downgraded the SLHRC to observer status, citing government interference in the work of the SLHRC.

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

The law provides for equal rights for all citizens, and the government generally respected these rights in practice; however, there were instances where gender and ethnic-based discrimination occurred.

*Women.*—The law prohibits rape and domestic violence but it was not effectively enforced. Sexual assault, rape, and spousal abuse were pervasive societal problems. The law specifically addresses sexual abuse and exploitation, and it contains provisions in rape cases for an equitable burden of proof and stringent punishments. Marital rape is considered an offense only in cases of spouses living under judicial separation. While the law could ease some of the problems faced by victims of sexual assault, many women's organizations believed that greater sensitization of police and the judiciary was necessary. The Bureau for the Protection of Children and Women (BPCW) within the police conducted awareness programs in schools and at the grassroots level, prompting women to file complaints. The BPWC received 714 complaints of grave violent crimes and 2,391 minor crimes against women during the year.

There were reports that individual cases of gender-based violence perpetrated by members of the security forces occurred more frequently during the conflict, but others stated that military officials were responsive to reports of such incidents and showed a willingness to prosecute the offenders. However, the government did not release any details about prosecutions or punishments for offenses during the conflict. Statistics on numbers of such cases were unavailable because few victims reported such incidents. Human rights groups in northern districts alleged that the wives of men who had been killed as a result of the conflict often fell victim to prostitution because of their economic vulnerability.

According to the BPWC, 175 reported incidents of rape occurred through August, but reported incidences of rape were unreliable indicators of the degree of this problem, as most victims were unwilling to file reports. Services to assist victims of rape and domestic violence, such as crisis centers, legal aid, and counseling, were generally scarce due to a lack of funding.

Prostitution, although illegal, was prevalent. Trafficking in women for prostitution and forced labor also occurred.

Sexual harassment was a criminal offense carrying a maximum sentence of five years in prison; enforcement of this law, however, was not widespread.

Couples and individuals were generally free to decide the number, spacing, and timing of their children. An estimated 40 percent of the population used modern contraceptives, and skilled attendance during childbirth was estimated at approximately 97 percent. Women appeared to be equally diagnosed and treated for sexually transmitted infections, including HIV. The UN and World Health Organization estimated approximately 4,000 persons were infected with HIV in 2007.

The law provided for equal employment opportunity in the public sector. In practice women had no legal protection against discrimination in the private sector, where they sometimes were paid less than men for equal work and experienced difficulty in rising to supervisory positions. Although women constituted approximately half of the formal workforce, according to the Asian Development Bank, the quality of employment available to women was less than that available to men. The demand for female labor was mainly for casual and low-paid, low-skill jobs. Women's participation in politics was approximately 5 percent in the parliament and the provincial councils.



Women had equal rights under national, civil, and criminal law. However, adjudication according to the customary law of each ethnic or religious group of questions related to family law, including divorce, child custody, and inheritance, resulted in de facto discrimination.

*Children.*—Citizenship was obtained by birth within the territory of the country and from a child's parents if born to citizen parents overseas. The law required children between the ages of five and 14 to attend school. The government provided extensive systems of public education and medical care. Education was free through the university level. Health care, including immunization, was also free and available equally to boys and girls.

Under the law the definition of child abuse includes all acts of sexual violence against, trafficking in, and cruelty to children. The law also prohibits the use of children in exploitative labor or illegal activities or in any act contrary to compulsory education regulations. It also defines child abuse to include the involvement of children in war.

NGOs attributed the problem of exploitation of children to the lack of enforcement, rather than to inadequate legislation. The conflict with the LTTE both before and after the end of the war had priority in the allocation of law enforcement resources. However, the police's BPCW conducted investigations into crimes against children and women. The National Child Protection Authority (NCPA) included representatives from the education, medical, police, and legal professions and reported directly to the president. During the year the BPWC received 1,974 complaints of grave violent crimes and 986 of minor crimes against children.

The government advocated greater international cooperation to bring those guilty of sexual exploitation of children to justice. Although the government did not keep records of particular types of violations, the law prohibits sexual violations against children, defined as persons less than 18 years of age, particularly in regard to child pornography, child prostitution, and the trafficking of children. Penalties for violations related to pornography and prostitution range from two to five years of imprisonment. The penalties for sexual assault of children range from five to 20 years' imprisonment and an unspecified fine. By the end of the year the government opened 1,575 files, of which 497 resulted in indictments for sexual assault and exploitation of children, including kidnapping, cruelty to children, rape and statutory rape; 299 cases were dismissed, and 303 cases were referred to the police for further investigation. The remaining were pending at year's end.

Commercial sexual exploitation of children remained a problem in coastal resort areas. Private groups estimated that approximately 6,000 children were exploited for commercial sex in the country, and that local citizens were responsible for much of the exploitation. Other groups believed foreign tourists were more frequently the exploiters of thousands of children, especially boys, for commercial sex, most of whom were reportedly forced into prostitution by traffickers. There was little solid data to elucidate these reports. The Department of Probation and Child Care Services provided protection to child victims of abuse and sexual exploitation and worked with local NGOs that provided shelter. The tourist bureau halted programs to raise awareness for at-risk children in resort regions prone to sex tourism due to a lack in funding.

Children in the large, postwar IDP camps were exposed to the same difficult conditions as other IDPs in the same camps. School facilities were set up by the government early on, but were rudimentary and lacked many basic supplies. Medical care in the camps was limited, but improved over time as the government was better able to organize its resources and allowed increased assistance from outside organizations.

*Trafficking in Persons.*—The law prohibits trafficking in persons. Legal penalties for trafficking include imprisonment for two to 20 years and a fine. For trafficking in children, the law allows imprisonment of three to 20 years and a fine.

The country was both a point of origin and destination for trafficked persons. Sri Lankan men and women migrated legally to the Middle East, Singapore, Hong Kong, Malaysia, and South Korea primarily to work in construction, factories, and as domestics. A small percentage of those who went abroad found themselves in situations of involuntary servitude, facing restrictions on movement, threats, and physical or sexual abuse. Illegal recruitment agencies charged large predeparture fees that forced some migrants into debt bondage.

The Bureau of Foreign Employment (BFE) had responsibility to protect and assist workers who went abroad for work. The BFE estimated that approximately 1.8 million citizens were working abroad during the year. The BFE licensed recruitment agencies and had three offices to protect migrant workers abroad: a police detachment that raided and arrested bogus recruitment agencies, an office that mediated

with foreign employers and recruiting agencies to resolve workers' complaints, and a prosecutorial department that tried cases against unlicensed recruiting agencies. The BFE conducted a publicity campaign to warn of the dangers of going abroad illegally and of using illegitimate recruitment agencies. Lack of effective enforcement against violators and the infrequency of punishment for abuses provided little incentive for operators to refrain from illegal but lucrative practices. In 2008 the BFE received 9,664 complaints. Some 17 percent of these were for nonpayment of wages.

Women and children were reportedly trafficked internally for domestic and sexual servitude. No statistics were available on the extent of this problem. A number of Thai, Chinese, and Russian women, and women from the former Soviet Union were also trafficked into the country for commercial sexual exploitation.

The NCPA had primary responsibility for prevention of trafficking in children. It had a Special Police Investigations Unit, with arrest authority, that focused on combating the trafficking of children for commercial and sexual exploitation. The NCPA had several cases pending against child traffickers, but no trials were completed by the end of the year. Trials were slow, taking as long as 10 years. The NCPA operated centers for children vulnerable to trafficking in Anuradhapura, Kalmunai, Puttalam, and Trincomalee, targeting populations affected by the war, the 2004 tsunami, and economic challenges.

The government continued its programs to monitor the movements of suspected traffickers or sex tourists, including a cyberwatch project to monitor suspicious Internet chatrooms.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law forbids discrimination against any person on the grounds of disability; however, in practice discrimination occurred in employment, education, and provision of state services. The Department of Social Services operated eight vocational training schools for persons with physical and mental disabilities and sponsored a program of job training and placement for graduates. The government provided financial support to NGOs that assisted persons with disabilities including subsidizing prosthetic devices, making purchases from suppliers with disabilities, and registering 74 NGO-run schools and training institutions for persons with disabilities. The Department of Social Services reportedly discontinued a program that had allowed job placement officers to help the estimated 200,000 work-eligible persons with disabilities find jobs, due to a lack of funding. This program had assisted 147 disabled persons in finding jobs in 2008. Persons with disabilities faced difficulties due to negative attitudes and societal discrimination.

On October 14, the Supreme Court directed that steps be taken to provide easy access for persons with disabilities to public buildings. There were regulations on accessibility, but in practice accommodation for access to buildings for persons with disabilities was rare. The Department of Social Services provided housing grants, self-employment grants, and medical assistance to persons with disabilities. During the year the department provided a monthly allowance grant of approximately 3,200 rupees (\$30) to approximately 2,100 families of disabled persons.

*National/Racial/Ethnic Minorities.*—Both local and Indian origin Tamils maintained that they suffered longstanding systematic discrimination in university education, government employment, and in other matters controlled by the government. According to the SLHRC, Tamils also experienced discrimination in housing. Landlords were required to register any Tamil tenants and report their presence to the police.

Tamils throughout the country, but especially in the conflict-affected north and east, reported frequent harassment of young and middle-aged Tamil men by security forces and paramilitary groups.

A small ethnic group known as Kaffari or Kaffirs existed in very small numbers, mostly in the coastal areas of Negombo, Trincomalee and Batticaloa. They were thought to be the descendants of African slaves originally brought to Sri Lanka by the Portuguese sometime in the 16th century. They numbered approximately 1,000, and had dwindled in number largely due to many years of intermarriage. They did not appear to suffer from any overt discrimination, but because of their small number struggled to maintain any distinct cultural identity.

*Indigenous People.*—The country's indigenous people, known as Veddas, by some estimates numbered fewer than 1,000. Some preferred to maintain their traditional way of life and are nominally protected by the law. There were no legal restrictions on their participation in political or economic life. However, lack of legal documents was a problem for many. Vedda communities complained that they were pushed off

their lands by the creation of protected forest areas, which deprived them of traditional livelihoods.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law criminalizes homosexual activity, but this was not officially enforced. Some NGOs working on lesbian, gay, bisexual, and transgender (LGBT) issues did not register with the government. In recent years human rights organizations reported that while not actively arresting and prosecuting LGBT activity, police harassed, extorted money, or sexual favors from, and assaulted gays and lesbians in Colombo and other areas. This led to many incidents of crimes against members of the LGBT community going unreported. There were LGBT organizations, and several events were held throughout the year. In addition to pressure, harassment, and assaults by police, there remained significant societal pressure against members and organizations of the LGBT community. There were no legal safeguards to prevent discrimination based on sexual orientation or gender identity.

*Other Societal violence or Discrimination*

There was no official discrimination against those who provided HIV prevention services or against high-risk groups likely to spread HIV/AIDS, although there was societal discrimination against these groups.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law allowed workers to form and join unions of their choice without previous authorization with the exception of members of the armed forces and police officers, who are not entitled to unionize. Seven workers could form a union, adopt a charter, elect leaders, and publicize their views. To compel an employer to recognize a union required forty percent of the staff. In practice such rights were resisted by the management of individual factories and administrative delays by the government in registering unions. Approximately 20 percent of the seven million-person workforce nationwide and more than 70 percent of the plantation workforce was unionized. In total there were more than one million union members. Approximately 11 percent of the nonagricultural workforce in the private sector was unionized. Unions represented most workers in large private firms, but workers in small-scale agriculture and small businesses usually did not belong to unions. Public sector employees were unionized at very high rates.

Under the law workers in the 12 Export Processing Zones (EPZs) had the same rights to join unions as other workers. Although some unions were able to organize EPZ workers, forming trade unions was more difficult in the zones, as some employers tried to undermine the formation of unions there. As a consequence the unionization rate within the EPZs was under 10 percent of the workforce. As of December, 11 trade unions were active in EPZs. According to the Board of Investment (BOI), in September 2007, unions were operating in 31 out of 259 factories in the EPZs.

Most large unions were affiliated with political parties and played a prominent role in the political process, although some major unions in the public sector were politically independent. The Ministry of Labor Relations and Manpower was authorized by law to cancel the registration of any union that did not submit an annual report, the only grounds for the cancellation of registration.

By law all workers, other than police, armed forces, prison service, and those in essential services, had the right to strike, but the government did not enforce this law uniformly. Workers may lodge complaints with the commissioner of labor, a labor tribunal, or the Supreme Court to protect their rights. Strikes were forbidden in areas that were determined by the president to be “any service which is of public utility or is essential for national security or for the preservation of public order or to the life of the community and includes any Department of the Government or branch thereof.” On November 15, in the face of threatened strikes, the petroleum corporation, the water board, the Ceylon Electricity Board and the port facilities were all declared to be essential services.

The law prohibited retribution against strikers in nonessential sectors; in practice, however, employees were sometimes fired for striking. Those employees affected under the November 15 essential services ruling returned to work without any major incidents.

During the year the Supreme Court did not intervene to stop public sector trade unions from striking. The law allows unions to conduct their activities without interference, but the government enforced the law unevenly. By law public sector unions are not allowed to form federations, but the law was not generally enforced. In prior years the International Trade Union Confederation (ITUC) reported that union officials and organizers were harassed and intimidated with impunity, including arrests, libel, and death threats, but no report was obtained for the current year.

Employees of the Ceylon Petroleum Corporation were harassed and assaulted by unidentified assailants.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to collective bargaining; however, the government did not enforce it. All collective agreements are required to be registered at the Department of Labor. Collective agreements normally were for three years, five were registered during the year, and 18 were registered in 2008.

The Employer's Federation of Ceylon (EFC) employed an estimated 15 percent of the country's three million private sector workforce, primarily in the tourism, finance, plantations, manufacturing, and services sectors. The EFC did not have members from the large informal sector or foreign or government employees. About half of EFC's 520-company membership had a unionized workforce, and approximately 135 companies in the EFC had collective agreements with workers.

Employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities but could transfer them to different locations. Antiunion discrimination was a punishable offense liable for a fine of 20,000 rupees (\$177). During the year the Department of Labor filed action against one company for unfair labor practices under section 32A of the Industrial Disputes Act, reportedly the first time this has occurred since at least 1999. Some violations were previously prosecuted under various other labor laws, such as the Wages Board Act, Employees Provident Fund Act, Termination Act, or other sections of the Industrial Disputes Act, and several employers were under investigation. In practice employers often delayed recognition of unions for collective bargaining indefinitely. The ITUC reported that employers used these delays to identify, victimize, terminate, and sometimes assault or threaten union activists.

In most EPZ enterprises, worker councils, composed of elected representatives of employees, engaged in labor and management negotiations. In accordance with BOI guidelines, they participated in labor-management negotiations. As of December worker councils were active in 156 factories. The International Labor Organization approved the right of worker councils to engage in collective bargaining, provided worker councils were not used to undermine the position of unions. NGOs and unions reported that undermining did occur.

Labor representatives alleged that the BOI and the Department of Labor discouraged union activity within EPZ factories and favored worker councils. Restricted access to the EPZs for union and NGO organizers made it difficult to organize. Labor representatives alleged that the labor commissioner, under BOI pressure, failed to prosecute employers who refused to recognize or enter into collective bargaining with trade unions. The government countered that employees preferred to work within a company to resolve disputes rather than via large unions spanning many companies.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibited forced or bonded labor; however, there were reports that such practices occurred, particularly in the informal employment sector such as agriculture, mining, and ropemaking.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment was 14, although the law permitted the employment of younger children by their parents or guardians in limited family agriculture work or to engage in technical training. Persons under age 18 could not be employed in any public enterprise that was considered dangerous.

There were no reports of children employed in the EPZs, the garment industry, or any other export industry. Children sometimes were employed in the plantation sectors and in nonplantation agriculture during harvest periods. Sources indicated that many thousands of children (between 14 years and 18 years of age) were employed in domestic service in urban households, although this situation was not regulated or documented. Some child domestics reportedly were subjected to physical, sexual, and emotional abuse. Employment of children commonly occurred in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops. There were cases of underage children recruited to serve as domestics abroad, primarily in the Middle East.

The National Child Protection Authority was the central agency for coordinating and monitoring action on the protection of children. The Department of Labor, the Department of Probation and Child Care Services, and the police were responsible for the enforcement of child labor laws. Approximately 220 complaints of child employment were received from January through November by the police Children's and Women's Desk, compared to 257 complaints the previous year. Information on litigation during the year was not available. Penalties for employing minors were 10,000 rupees (\$89) or 12 months' imprisonment.

The government identified a list of 49 occupations considered to be hazardous. Of these occupations, 40 were unconditionally prohibited for children under 18 years of age, with limited exceptions for the remaining nine occupations. However, by year's end the government had not passed implementing legislation.

*e. Acceptable Conditions of Work.*—While there was no national minimum wage, 43 wage boards established by the Ministry of Labor Relations and Manpower set minimum wages and working conditions by sector and industry in consultation with unions and employers. The minimum wage in sectors covered by wage boards was increased to 5,750 rupees (\$51) in 2008. In addition to the minimum wage, employees covered by the wage boards received an allowance of 1,000 rupees per month (\$9) in 2005 that effectively brought the total minimum wage to 6,750 rupees per month (\$60). The minimum wages set by some wage boards was higher than the government stipulated minimum wage. These minimum wages, however, did not always provide a decent standard of living for a worker and family. The minimum wage in the public sector was higher than that governed by the wage boards. Workers in sectors not covered by wage boards, including informal sector workers, were not covered by any minimum wage.

The law prohibited most full-time workers from regularly working more than 45 hours per week (a five-and-a-half-day workweek). In addition the law stipulates a rest period of one hour per day. Regulations limit the maximum overtime hours to 15 per week. Overtime pay is 1.5 times the wage, and is paid for work done on either Sundays or holidays. Several laws protect the safety and health of industrial workers, but the Ministry of Labor Relations and Manpower's efforts were inadequate to enforce compliance. Health and safety regulations do not meet international standards. Workers have the statutory right to remove themselves from dangerous situations, but many workers were unaware or indifferent to such rights and feared they would lose their jobs if they removed themselves from the work situation. The government had approximately 680 labor inspectors. The ITUC reported that labor inspection was inadequate in the EPZs, as labor inspectors cannot make unannounced visits.

Migrant labor also faced abuse. There were cases when recruitment agencies promised one type of job to a migrant but changed the job, employer, or salary after the employee arrived.

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## TAJIKISTAN

Tajikistan, with a population of more than seven million, is an authoritarian state, and political life is dominated by President Emomali Rahmon and his supporters, drawn mainly from one region of the country. The constitution provides for a multiparty political system, but in practice the government obstructed political pluralism. The 2006 presidential election lacked genuine competition and did not meet international standards, although there were some improvements on voting procedures. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, and corruption continued to hamper democratic and social reform. The following human rights problems were reported: restricted right of citizens to change their government; torture and abuse of detainees and other persons by security forces; impunity for security forces; denial of right to fair trial; harsh and life-threatening prison conditions; prohibition of international monitor access to prisons; restrictions on freedoms of speech, press, association, and religion; government harassment of nongovernmental organizations (NGOs); security force abuse of refugees; violence and discrimination against women; trafficking in persons; and child labor.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any apparently politically motivated killings, but several political opponents of the regime died violently in unclear circumstances.

On June 17, former minister of interior Mahmadvazar Solehov died after government security forces entered his home. The government claimed Solehov committed suicide.

On July 11, Mirzo Ziyoev, a former commander in chief of the United Tajik Opposition (UTO) and minister of Emergency Situations, was fatally shot while traveling

with government soldiers near Tavildara. The government claimed a rebel faction killed him.

There were several cases of deaths in prisons and detention facilities in which families of the detainees disputed the official cause of death. For example, on June 27, police detained a doctor who crossed a street in front of a presidential motorcade in Dushanbe; he died in custody several hours later. Police claimed the doctor's death resulted from a heart attack, but marks on his body indicated he had been physically abused while in custody. The doctor's relatives contested the police account in court, and the case continued at year's end.

According to the Tajikistan Mine Action Center and the Landmine Monitor, there were fewer landmine casualties than in previous years, with eight casualties (three killed and five injured) in four incidents. Five casualties were civilians and three were military. On March 2, two military personnel were injured while on duty in Dushanbe. On March 30, an antipersonnel mine killed a man who was grazing cattle in the Isfara district of Sughd province. On April 27, a man and a woman were injured in the Rasht district, and on June 17, an antipersonnel mine injured a military deminer during clearance activities in Darvoz district, Gorno-Badakhshan Autonomous Region. On December 25, a mine explosion on the Uzbek border killed two persons in the Isfara district. The government called for the removal of mines along the borders.

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

*c. Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment.*—The law prohibits such practices, but some security officials used beatings or other forms of coercion to extract confessions during interrogations, although the practice was not systematic. Officials did not grant sufficient access to information to allow human rights organizations to investigate claims of torture.

In Sughd region, four suspects arrested in a murder case claimed investigators tortured them seeking to extract confessions. One suspect claimed an investigator threatened to "ruin" his daughter if he did not confess to a crime. The same individual stated he lost toenails as a result of torture while in custody. The courts dismissed the individual's claim of torture, and he was convicted of murder and other crimes and sentenced to 30 years in prison. Several individuals held in Dushanbe city jails also claimed they were beaten while in custody. Articles in the criminal code do not specifically define torture, and the country's law enforcement agencies have not developed effective methods to investigate allegations of torture. According to a report during the year by Human Rights Watch, "Experts agreed that in most cases there is impunity for rampant torture in Tajikistan."

In an April 2008 court decision (Rakhmatov et al. v. Tajikistan) the UN Human Rights Committee found that the government violated the human rights, including freedom from torture, of three adults and two minors. The committee also noted that the government failed to cooperate with the committee and that similar allegations were substantiated in an October 2008 court decision (Khuseynov and Butaev v. Tajikistan). Denial of access to detention centers impeded efforts to determine if any improvements had occurred since then.

*Prison and Detention Center Conditions.*—The government operates eight prisons, including one for females, and four pretrial detention facilities. The government opened a new prison in Khujand, and many citizens reported that it represented an improvement over the previous detention facility.

The Ministry of Justice (MOJ) continued to deny access to prisons or detention facilities to representatives of the international community and civil society seeking to investigate claims of harsh treatment or conditions. Some foreign diplomatic missions and NGOs were given access to implement assistance programs or carry out consular functions, but their representatives were limited to administrative or medical sections, and MOJ personnel accompanied them. The government did not sign an agreement with the International Committee of the Red Cross (ICRC) to allow free and unhindered access to prisons and detention centers, and the ICRC's international monitoring staff has not returned to the country since 2007.

Detainees and inmates described harsh and life-threatening prison conditions, including extreme overcrowding and unsanitary conditions. Disease and hunger were serious problems, but outside observers were unable to assess accurately the extent of the problems because authorities did not allow access to prisons. Organizations such as the UN Human Rights Council reported that infection rates of tuberculosis and HIV were significant and that the quality of medical treatment was poor.

*d. Arbitrary Arrest or Detention.*—The government placed few checks on the power of prosecutors and police to make arrests. The criminal justice system operated under the criminal procedure code based on a 1961 Soviet law. Individuals reported that some prosecutors and courts pressed questionable criminal charges and that

some officials influenced judges inappropriately to get convictions. In December the government approved a new criminal procedure code to replace the existing code in April 2010.

*Role of the Police and Security Apparatus.*—The Ministry of Interior (MOI), Drug Control Agency (DCA), Agency on State Financial Control and Fight Against Corruption (an anticorruption agency), State Committee for National Security (SCNS), State Tax Committee, and Customs Service shared civilian law enforcement responsibilities. The MOI is responsible primarily for public order and controls the police force. The DCA, anticorruption agency, and State Tax Committee each have a mandate to investigate specific crimes, and they report to the president. The SCNS has responsibility for intelligence and controls the Border Service. The Customs Service reports directly to the president. The Prosecutor General's Office oversees criminal investigations these agencies conduct.

The agencies' responsibilities overlapped significantly, and law enforcement organizations deferred to the SCNS. Law enforcement agencies were not effective in investigating organized criminal gangs, and corruption remained a serious problem. There were credible allegations that some traffic police retained the fines they collected for traffic violations. Although this corruption was small-scale, it was widespread and systemic. Although the government prosecuted some law enforcement officials, serious abuses—particularly those committed by high-ranking officials—went unpunished, including the alleged fraud committed by former bank governor Alimardon (see section 4).

In May a regional prosecutor was accused of pressuring a woman to drop a criminal complaint against a man who allegedly abused her and stole her property. The alleged perpetrator's brother worked for the Prosecutor's Office. After the woman's defense attorney filed her initial criminal complaint, the prosecutor's office allegedly threatened the attorney that he could be prosecuted for libel and that it "isn't worth it" to raise complaints about prosecutors or their relatives.

Victims of police abuse may submit a formal complaint in writing to the officer's superior or the Office of the Ombudsman. Most victims chose to remain silent rather than risking retaliation by the authorities. The Ombudsman's Office for Human Rights opened in May and made efforts to respond to complaints about civil rights violations, but lack of funding and resources impeded its work. According to government reports, the anticorruption agency detected 677 corruption-related crimes through September, including 122 government employees of the public management system, law enforcement, and counternarcotics agency.

*Arrest and Detention.*—By law prosecutors are empowered to issue arrest warrants, and there is no requirement for judicial approval of an order for pretrial detention. Police may detain a suspect without a warrant in certain circumstances, but a prosecutor must be notified within 24 hours of arrest. After a warrant is issued, the police may hold a suspect 72 hours before arraignment. Defense advocates alleged that prosecutors often held suspects for longer periods and only registered the initial arrest when the suspect was ready to confess. Pretrial detention may last as long as 15 months in exceptional circumstances. Local prosecutors may order pretrial detention for as long as two months; subsequent detentions must be ordered by progressively higher level prosecutors. A defendant may petition for judicial review of a detention order, but judges rarely questioned detention decisions, and defense attorneys stated judges regarded this review as merely a formality.

Prosecutors oversee pretrial investigation and have the right to initiate criminal proceedings. Individuals have the right to an attorney upon arrest and the government must appoint lawyers for those who cannot otherwise afford one. In practice the government provided few attorneys for public defense, and these attorneys were generally ineffective. There is no bail system, although criminal detainees may be released conditionally and restricted to their place of residence pending trial. The typical length of pretrial detention was two to three months.

According to the law, family members are allowed access to prisoners only after indictment; officials occasionally denied attorneys and family members access to detainees. Authorities held detainees charged in crimes related to national security incommunicado for long periods without formally charging them. In January, after relatives of former citizen Muhammadi Salimzoda sought his whereabouts for five months, the SCNS admitted that Salimzoda had been in state custody the entire period. Salimzoda was sentenced to 29 years' imprisonment for espionage and attempting to overthrow the government, but he claimed security personnel obtained his confession to the crimes under physical and psychological duress.

The government generally provided a rationale for arrests, although some detainees claimed that authorities falsified charges or inflated minor problems to make

politically motivated arrests. Some police and judicial officials regularly accepted bribes in exchange for lenient sentencing or release.

*Amnesty.*—On November 4, President Rahmon granted amnesty to 10,000 prisoners, in part to relieve prison overcrowding. The amnesty covered those who had served three-fourths of their sentences, women, children, men older than 55, disabled prisoners, civil war veterans, and individuals sentenced for army desertion. Individuals covered by the amnesty were eligible to apply for release, pending court approval, on a case-by-case basis.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, in practice the executive branch exerted pressure on prosecutors and judges. Corruption and inefficiency were significant problems.

On June 9, Judge Nur Nurov sentenced 31 residents of Isfara district to 10 to 25 years in prison for numerous crimes including theft, embezzlement, and membership in a criminal organization. The convicted individuals included employees and family members of a prominent Isfara businessman whose holdings were seized by officials. Following the sentencing, the state prosecutor complained that he had not asked for such lengthy sentences. The defense attorney later produced an audio tape in which Judge Nurov claimed that the chair of the Supreme Court had ordered him to issue maximum sentences to the group.

In September the Grace Sun Min Church vacated the school it had purchased in the late 1990s after losing a legal dispute with the city of Dushanbe. Legal observers believed the government pressured the court to rule against the church so the government could reclaim ownership of the school.

The law gives prosecutors disproportionate power in relation to judges and defense advocates. This power includes control of formal investigations and oversight of entire case proceedings. “Supervisory powers” provided by law allow prosecutors to protest court decisions outside normal appeal procedures. Prosecutors effectively can cause court decisions to be annulled and reexamined by higher courts indefinitely after appeal periods have expired. These powers were an impediment to establishing an independent judiciary.

The criminal courts are organized into three levels: district, city or regional, and national courts. Most cases were heard in general criminal courts. In rare instances, military courts try civilians, and the defendants have the same rights they would have as defendants in civilian courts. A military judge and two officers drawn from the service ranks hear these cases. A constitutional court adjudicates claims of constitutional violations.

The president is empowered to appoint and dismiss judges and prosecutors with the consent of parliament. The parliament approved all presidential judicial nominations during the year, nor did the president dismiss any judges. Judges at all levels often were poorly trained and had limited access to legal reference materials. Low wages for judges and prosecutors left them vulnerable to bribery, which was a common practice. Government officials subjected judges to political influence.

The government addressed problems of judicial integrity by holding some judges and prosecutors accountable for criminal conduct. During the year the government arrested four judges and three judicial system employees for corruption. Courts convicted four judicial system employees who were arrested for corruption in 2007.

*Trial Procedures.*—Trials are public, except in cases involving national security. There is a presumption of innocence by law, but in practice defendants were presumed guilty. NGOs reported that their ability to gain access to monitor trials improved during the year, although authorities denied NGOs access to some trials without explanation. In many cases judges were reluctant to allow monitoring organizations to observe trials unless the judge received an official request from the Council of Justice. In national security cases, a panel consisting of a presiding judge and two “people’s assessors” determines the guilt or innocence of the accused. Qualifications of the assessors and how those qualifications are determined are not known, but their role is passive, and the presiding judge dominates the proceedings.

The law states that cases should be brought before a judge within 28 days after indictment. Pretrial investigation can be extended as long as 15 months in exceptional circumstances, but most cases were brought to trial within three months. Indicted individuals were usually found guilty. Judges often deferred to uncorroborated testimony of law enforcement officers, especially members of the SCNS, and often discounted the absence of physical evidence.

Defendants and attorneys have the right to review all government evidence, confront and question witnesses, and present evidence and testimony. No groups are barred from testifying, and in principle, all testimony receives equal consideration. In practice courts generally gave prosecutorial testimony more consideration than



defense testimony. The law provides for the right to appeal. The law extends the rights of defendants in trial procedures to all citizens.

*Political Prisoners and Detainees.*—Authorities claimed that there were no political prisoners and that they did not make any politically motivated arrests. Opposition parties and local observers claimed the government selectively prosecuted political opponents. There was no reliable estimate of the number of political prisoners, but former opposition leaders claimed there were several hundred such prisoners held in the country, including former fighters of the UTO.

In February Rustam Fayziev, deputy chairman of the unregistered Party of Progress, died in prison after four years of confinement for insulting and defaming President Rahmon in a 2005 unsent, unpublished letter. The government claimed his death was the result of natural causes. Muhammadruzi Iskandarov, head of the Democratic Party of Tajikistan and former chairman of Tojikgaz, the country's state-run gas monopoly, remained in prison following his unlawful extradition from Russia and 2005 conviction for corruption. Former interior minister Yakub Salimov remained in prison serving a 15-year sentence for crimes against the state and high treason following his 2005 closed trial.

In December security officials arrested family members of the late Mirzo Ziyoev, former UTO leader killed in July, on unknown charges.

*Civil Judicial Procedures and Remedies.*—Civil cases are heard in general civil courts, economic courts, and military courts. In practice the jurisdictions of these courts overlapped significantly, sometimes impeding fairness and efficiency. For example, a case during the year involving Jehovah's Witnesses was processed in a regional court. In 2008 the Supreme Court determined that a military court should hear civil cases related to Jehovah's Witnesses. In 2008 an economic court heard a land use dispute between the Grace Sun Min Church and the city of Dushanbe, despite the lack of a clear commercial interest.

*Property Restitution.*—Despite changes to the land code, substantive property law is weighted against private property holders. Property recording systems are outmoded, leaving government officials with frequent opportunities to claim that property owners have violated regulations. Government officials relied on a lack of procedural transparency to implement development plans that call for building new businesses or residences in city centers at the expense of long-time residents. Municipal governments that developed these plans did not share them with the public, and evictees were afforded little due process.

Officials appeared to decide that government control of certain parcels of land was necessary and acquired them with no public debate and without elaborating on the justification for government seizure. The government notified residents that they had to leave their properties and offered them very little compensation. If residents did not comply with the order to vacate, city officials took them to court. The court hearings generally resulted in an eviction order. Property owners who challenged evictions in the courts generally were unsuccessful and were subject to retribution. Some of the owners were charged with criminal violations.

On May 4, a new synagogue was opened in Dushanbe, funded by the head of Orion Bank (who is the brother-in-law of the president). In June 2008 officials demolished the country's former synagogue to make way for a new presidential palace after a local court upheld an eviction order against Dushanbe's Jewish community, despite significant irregularities in the process.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits arbitrary interference, although police forces committed violations in practice.

The law states that police cannot enter and search a private home without the approval of a prosecutor, except in special circumstances in which a delay would impair national security. If police search a home without prior approval, they must inform a prosecutor within 24 hours. In practice police frequently ignored these laws and infringed on citizens' right to privacy, and citizens were sometimes searched without a warrant. The government conducts no independent judicial review of police searches conducted without permission. In August state security officers raided a private home and detained 17 Jehovah's Witnesses. The individuals were interrogated and released, pending trial.

The law prohibits the government from monitoring private communications, but citizens and NGOs alleged that the government did so on occasion.

Police and MOI officials sometimes harassed the families of suspects in pretrial detention or threatened to do so to elicit confessions, as in the case in which a prosecutor allegedly threatened a suspect that he would "ruin" his daughter (see section 1.c.).

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, but in practice the government restricted these rights. Authorities subjected individuals who disagreed with government policies to intimidation and discouraged them from speaking freely or critically. Under the law a person can be imprisoned for as long as five years for insulting the president.

Independent media were active but, as in previous years, the government subjected the media to different means of control and intimidation. Although print media regularly published political commentary and investigatory material critical of the government, media sources observed that certain topics were considered off limits, including derogatory information about the president or his family members or questions about financial impropriety by those close to the president. Media outlets regularly practiced self-censorship due to fear of government reprisal.

In October a Dushanbe court found Paikon newspaper guilty of libel after it published an open letter by businessmen critical of the country's import/export agency. The court ruled that the newspaper must pay the agency 300,000 somoni (\$68,000) for publishing the letter. The newspaper appealed the court's decision, noting that the law states that only individuals (not organizations) may be sued for libel.

There were four state-run television channels that broadcast throughout the country, and four state-run television stations that broadcast regionally. There was one national and several regional state-run radio stations. Several independent television and radio stations were available in a small portion of the country, but the government controlled most broadcasting transmission facilities.

In March the government terminated the contract of Russia's RTR Planeta television over unpaid fees. RTR was the only Russian-language channel broadcasting in the country. Independent TV Somoniyon, shut down in 2004, won several cases against the State Committee on Radio and TV but did not receive compensation or a new license. In October a court ruled against TV Somoniyon, and it remained off the airways. An independent television station in the Sughd region, "Guli Bodom," was denied an extension of its license, which many media analysts alleged was the government's response to the political content of the station's programming.

The government also cut off transmission of independent Radio Imruz on August 11 after it reported on sensitive security issues. The government permitted the station to resume broadcasting on September 3 but required the resignation of the editor in chief. The government initiated a case against Tursunali Aliyev for slander, based on his criticism of Sughd authorities in a 2007 article in Tong (a local newspaper), and the case remained open at year's end. Local prosecutors rejected charges against Aliyev in 2007, but Sughd regional prosecutors instituted their own case. Media advocacy organizations viewed the case as the result of government efforts to intimidate journalists.

Government authorities occasionally subjected individual journalists to harassment and intimidation. Government officials fabricated derogatory information about a journalist working for Reuters and threatened to release the false information if the journalist proceeded to write information critical of the government. Journalists reported that government officials limited their access to information or provided advice on what news should not be covered.

Other common types of government harassment included arbitrary prosecutions, warnings issued via telephone and in person at prosecutors' offices or during visits to editorial offices, and selective tax inspections. In September 2008, the Prosecutor General's Office instituted criminal proceedings against Dodojon Atovulloyev, the editor in chief of the Moscow-based opposition newspaper Charogh-i-Ruz (The Light of Day). Prosecutors instituted proceedings, citing provisions in the criminal code that criminalize calling for the overthrow of the constitutional order and public defamation of the president, and were allegedly seeking Atovulloyev's extradition from Russia. Atovulloyev remained abroad and Charogh-i-Ruz, which criticized President Rahmon, ceased publication.

Independent radio and television stations continued to experience administrative harassment and bureaucratic delays. New stations must be licensed by the Commission of the National Committee on Television and Radio, which directly manages the national television and radio stations. The government restricted issuance of licenses to new stations, in part through an excessively complex application process. According to the National Association of the Independent Media of Tajikistan (NANSMIT), more than 20 privately owned broadcasting organizations were unable to begin working because the licensing commission had rejected their documents over the last four years. NANSMIT and the Union of Tajik Journalists called for an end to the National Committee on Television and Radio's control of licensing, noting the Committee's conflict of interest due to its management of the national stations. Only a few of the privately held television stations were genuinely inde-

pendent, and government officials at times interfered with their operations. The government granted two new broadcast licenses in March to the Mavji Oryono television station in Khujand and to the FM Aziz Plus radio station in Istravshan, but neither station was functioning, according to NGOs.

The government allowed some international media to operate freely as well as re-broadcasts of Russian television and radio programs. The government continued to deny BBC a renewal of its license to broadcast on FM radio. BBC broadcast a Persian-language television station via satellite. Community radio stations continued to experience registration and licensing problems that prevented them from broadcasting. The Russian-language K Plus operated in the country and broadcasted via satellite from Kyrgyzstan.

Opposition politicians had limited access to state-run television. State television excluded the Social Democratic Party of Tajikistan (SDPT) from its election coverage and did not report on the SDPT's party congress; political observers attributed the lack of coverage to party leaders' expressions of political views that opposed government policies. The government allowed opposition political party leaders limited or, in some cases, no broadcast time during the parliamentary election campaign through the end of the year. The government allowed opposition candidates limited time in parliamentary and presidential elections in 2005 and 2006.

The government exercised a number of restrictions on the distribution of materials. All newspapers and magazines with circulations exceeding 99 recipients were required to register with the Ministry of Culture. According to the Ministry of Culture, there were 244 registered newspapers and magazines, 128 of them private. None was a daily publication. All major newspapers were released once per week, on the same day of the week, and relied heavily on government-provided content. There were 10 information agencies, nine of them private, although some were not functioning and several were strongly influenced by the government.

The government continued to control most printing presses and the supply of newsprint. During the year at least six new national newspapers began publishing. One of these, *Risolat*, was a privately funded, religious-themed newspaper. In October a newspaper in Gorno-Badakhshan Autonomous Region began publication in a minority Pamiri language.

*Internet Freedom.*—Independent Web site [www.nansmit.tj](http://www.nansmit.tj) was temporarily shut down after it criticized the forced closure of an Internet cafe that allowed customers unrestricted access to Web sites. Two Internet sites remained blocked as a result of the 2006 government order to block access to Web sites that “undermined the state’s policies.” The sites are [www.charogu.ru](http://www.charogu.ru) and [www.ariana.com](http://www.ariana.com).

In 2007 the criminal code was amended to criminalize libel and defamation on the Internet, punishable by as long as two years in prison. By year’s end the government had not prosecuted anyone under these amendments.

*Academic Freedom and Cultural Events.*—In March the Ministry of Culture banned performances of a play after viewing it on opening night and deeming its content a political critique. After the playwright revised the script to remove objectionable content, authorities permitted the play to resume performances.

The Ministry of Education regularly placed pressure on academic institutions that employed individuals who opposed the president’s administration or policies. The ministry ordered the three-month closure of the Technological and Communication Innovation of Tajikistan Institute, ostensibly for technical reasons, but several opposition political figures were on its faculty. The institute contested the order in economic court, won a reprieve in September, and continued its operations. At year’s end the case remained open.

Students wearing a hijab (head scarf) were banned from attending public universities. Schoolchildren wearing hijabs have been denied diplomas at the conclusion of their studies, particularly in Dushanbe and the Sughd region. In Dushanbe and Khujand, university and school students contested the ban in two court cases, but in each case the court ruled in favor of the Ministry of Education. The Tajik National University expelled 40 students for wearing hijabs. Most were readmitted after they agreed to not wear hijabs on university grounds.

In September the Ministry of Education introduced a ban on wearing beards by teachers younger than 50. Teachers who are older than 50 may not wear beards longer than one and one-fourth inch.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, but the government restricted this right in practice. On May 6, 30 female merchants launched a hunger strike to protest the demolition of a market in Dushanbe where they were employed. Authorities proceeded to demolish the market and the hunger strike ended.

*Freedom of Association.*—The constitution protects freedom of association. In practice the government restricted this right. The Law on Observing National Traditions and Rituals provided a basis for the government to infringe on individuals' ability to hold private events such as wedding and funeral ceremonies. The law limits the number of wedding guests and controls ceremonial gift presentations and other traditional rituals. The law also regulates the number of guests at funerals and memorial services. Some citizens reported that government officials monitored weddings and funerals to ensure that all parties obeyed the law.

An estimated 2,000 public organizations functioned in the country. The government reported that the courts closed five public organizations during the year. The 2007 Law on Public Associations required all NGOs to register with the MOJ. Of more than 1,000 NGOs that reregistered, approximately 50 were international entities.

The government continued to refuse to register political parties and associations it considered to be opposition groups. The government also monitored activities of religious groups and institutions to prevent them from becoming overtly political.

Legislation defined extremism in broad terms and gave law enforcement agencies wide latitude to conduct investigations. There was no reliable estimate of the number of persons arrested or detained for membership in extremist organizations such as the Islamic Movement of Uzbekistan and Hizb ut-Tahrir. Fundamentalist Islamic groups, including Jamaat-E-Tabligh and the Salafi sect, also were banned; local authorities frequently detained and questioned members of these groups. Authorities reported that those arrested faced charges of membership in banned organizations, illegal possession of weapons, and disruption of the constitutional order.

Although prosecutors secured convictions for many of those arrested for extremist activities, law enforcement officials continued to use their authority to monitor, question, and detain a broad spectrum of individuals and groups by alleging extremism.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, but legislation and government decrees restrict this right.

In April the government passed the restrictive Law on Freedom of Conscience and Religious Organizations. Elements of the law included limiting the number of religious institutions that may be built within a given population area, designation of the Hanafi branch of Islam as the religious basis of society, a mandate that an individual seeking to open a religious institution must have been resident in the country for five years, limits on the number of madrassahs (religious schools) to one per district, and a requirement for all religious organizations to reregister with the Department of Religious Affairs (DRA) by January 1, 2010. According to the new law, prayer is effectively banned in public places and restricted to four areas: mosques, cemeteries, holy places, and the home. In practice the government did not enforce most provisions of the new law, and there were no known cases of individuals arrested for praying in a public place. The government granted approval to most minority religious organizations who applied to reregister with the DRA. Women were prohibited from attending mosques (see section 6).

In January the Supreme Court banned the Islamist "Salafi" movement and designated it an extremist organization. In June police raided a mosque, arrested 40 individuals, and charged them with membership in the Salafi movement.

Courts upheld the government's ban on activities of the Jehovah's Witnesses and took action against the group in local courts in the Sughd region.

On October 12, the first center for Ismaili Muslims in Central Asia, the Aga Khan Cultural Center, opened in Dushanbe.

The Council of Ulamo, an association of Islamic clergy, provides interpretations of religious practice that imams throughout the country are required to follow. Although the council is officially an independent religious body, in practice it was subject to significant government influence. The DRA is responsible for general regulation of all religious organizations. The DRA, in consultation with local authorities, registers and approves all religious places of worship. For Muslims, the DRA controls all aspects of participation in the hajj (pilgrimage to Mecca) and chooses participants. President Rahmon established the Center for Islamic Studies during 2008 to direct religious policy, and it remained active during the year.

The government continued to impose limitations on personal conduct and to restrict activities of religious groups it considered "threats to national security." Government officials visited mosques regularly to monitor activities, observe those who attended the mosques, and examine audio and video materials for evidence of extremist and antigovernment material. The DRA continued to test imams on their religious knowledge and to ensure that they followed official positions on religious issues.

The new Law on Religion placed new restrictions on private Islamic education. In January 2008 the government put the previously independent Islamic University, the country's only religious institution of higher learning, under the administration of the Ministry of Education. Teachers underwent a vetting process, and the university was downgraded to an "Islamic institute" (a level below that of university but equivalent to a college.) The government permitted private religious schools, but they were required to register with the Ministry of Culture. There were approximately 20 madrassahs at the secondary school level, including a new, secular-based madrassah; the government did not close madrassahs during the year.

Government printing houses generally did not publish religious literature, but they did so in special cases such as printing the Koran in Arabic script. The government tightly controlled importation of religious literature. In April 2008 the government refused to allow entry of a shipment of books for a Baptist organization, arguing that the size of the shipment was disproportionate to the organization's membership. The Ministry of Culture continued to ban religious literature from organizations it considered inappropriate during the year, and Jehovah's Witnesses' literature was included on the list.

The government did not restrict missionaries from registered religious groups. The new religion law permitted proselytizing, but in practice officials interfered with proselytizing. The government banned the Jamaat-E-Tabligh group due to its proselytizing activities and arrested its members.

The government requires citizens to apply for a permit to make the hajj and limits the number of citizens who may be issued these permits, placing additional age-based restrictions on those seeking to make the pilgrimage. There were some reports that government officials extracted bribes from individuals seeking permits to attend the hajj, or pressured them to purchase ruling political party newspapers or other goods.

*Societal Abuses and Discrimination.*—There were no reports of discrimination or harassment by members of one subgroup of a religion against members of other groups or religious minorities. According to Radio Free Europe/Radio Liberty, there were an estimated 15,000 Jews living in the country prior to the breakup of the Soviet Union, but many of them left, and the community now numbers only a few hundred persons. Although there were no confirmed public anti-Semitic acts, some imams and mullahs preached anti-Semitic messages in mosques. On May 4, a new synagogue was opened in Dushanbe to replace the one demolished by the government in 2008 to make way for a new presidential palace (see section 1.e.).

For a more detailed discussion, see the 2009 International Religious Freedom Report at <http://www.state.gov/j/drl/rls/irf/>.

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement, but in practice the government imposed some restrictions.

Foreigners are prohibited from traveling within a 15-mile zone along the country's borders with China and Afghanistan unless they obtain permission from the Ministry of Foreign Affairs. Officials did not always enforce the restrictions along the western border with Afghanistan, although the government required travelers (including international workers and diplomats) to obtain special visas to go to Gorno-Badakhshan. Diplomats and international aid workers could travel to the Afghanistan border without prior authorization.

There are no laws that provide for exile, and there were no reports of forced exile. Some government opponents remained in self-imposed exile in Russia.

Persons wishing to emigrate to countries of the former Soviet Union must notify the MOJ prior to their departure. Persons who wish to emigrate to other countries must obtain an immigrant visa to receive a passport. Most persons who left the country were permitted to return, but several political dissidents continued to reside abroad for fear of arrest. The government declared Dodojon Atovullov, editor in chief of Charoghi Ruz who resided in Russia, a criminal. Safar Abdullo, former deputy chairman of the Democratic Party, stated that he feared arrest if he returned to the country.

The government provided protection and modest assistance to resettle any citizens who returned voluntarily, and it cooperated with international organizations that helped to fund assistance and resettlement programs.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing protection to refugees.

The government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The Office

of the UN High Commissioner for Refugees (UNHCR) reported that there were no cases of deportations of individuals registered as refugees during the year. The government respected protection letters issued by the UNHCR and allowed those holding the letters to remain in the country while the UNHCR considered their claims.

In April the authority for processing refugees was moved to the MOI from the Ministry of Labor and Social Protection (MOL), resulting in longer processing times for refugees and additional administrative delays. The transfer of the Migration Service to the MOI brought with it rampant corruption and the routine solicitation of bribes for processing refugee claims and all other migration matters.

According to the UNHCR, 1,361 persons were registered as refugees or asylum seekers in all of 2008, but the Ministry of Interior registered more than 2,200 in the first nine months of the year. The number of new arrivals claiming refugee status was approximately double the 2008 number. The government continued to cooperate with the UNHCR, which retained its observer status in the Refugee Status Determination Commission.

The government generally succeeded in registering those with a claim to refugee or asylum status, but the government also placed significant restrictions on claimants. Officials continued to enforce a law prohibiting asylum seekers and refugees from residing in urban areas. Work permits for refugees were subject to administrative delays. Refugees and asylum seekers were generally left to their own devices to secure food, shelter, education, and access to basic services, although the UNHCR provided significant assistance. Government actions reflected a particular concern about the country's population of Afghan refugees. Security officials regularly monitored refugee populations. Foreigners, including refugees and persons with asylum status, were subject to police raids throughout the year, particularly following incidents in the summer in which security forces clashed with an armed opposition group in Tavildara.

The process for making asylum status determinations was fraught with problems, including lack of transparency. The government processed asylum applications through the National Refugee Status Determination Commission and granted applicants documents to regularize their stay and to prevent deportation. Officials made decisions to deny refugee status to some individuals without providing any justification for the decisions. Although the law stipulates that refugee status should be granted for as long as three years (after which it can be extended), the transfer of refugee processing to the MOI resulted in much shorter periods. Many Afghan refugees were granted status for periods as short as six months, after which they had to reapply for status to stay in the country. Although the law allowed refugees to apply for citizenship after 18 months, few were granted citizenship. In 2008 the government initiated a joint program with the UNHCR to promote integration and eventual citizenship for 1,000 long-staying Afghan refugees, but its implementation proceeded slowly.

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

The law provides citizens with the right to change their government peacefully. In practice the government restricted this right.

The president and his supporters, primarily from his home region of Dangara, continued to dominate the government. The president's political party, the People's Democratic Party of Tajikistan (PDPT), dominated both houses of parliament, holding 52 of 63 seats in the Assembly of Representatives and an overwhelming majority in the National Assembly. Members of the PDPT held most government positions. The president had broad authority to appoint and dismiss officials, and he exercised that authority throughout the year. For example, in January, according to Radio Free Europe/Radio Liberty, President Rahmon fired the heads of the state electricity and natural gas companies, accusing them of failing to do their jobs.

*Elections and Political Participation.*—After the 2006 presidential elections, the Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) determined that presidential electoral legislation did not provide a framework for democratic elections and that the 2005 parliamentary elections were not free and fair. OSCE/ODIHR also noted that officials exercised excessive control during the campaign and that the elections did not adhere to democratic principles. Opposition parties, ODIHR, and NGOs generally agreed on the areas that needed reform: increasing accountability for election violations, revising the election law and enacting new legislation, improving electoral administration, establishing an environment all considered fair for campaigning, and assisting political parties to become more professional. By year's end the government had not implemented these recommendations or approved a new election law

to replace the 2005 law. Accordingly, the February 2010 parliamentary elections were to be conducted under the 2005 law.

The government reported eight legally registered political parties, including the PDPT, but the MOJ refused to register a ninth party, the Unity Party. Observers considered only three parties to represent actual opposition. Opposition political parties had moderate popular support and faced close scrutiny by the government. In February Rustam Fayziev, deputy chairman of the unregistered "Progress Party," died in prison after four years of confinement.

The law prohibits political parties from receiving support from religious institutions, but religiously affiliated parties, such as the Islamic Revival Party (IRPT), were registered.

The Democratic Party of Tajikistan remained factionalized. Supporters of the party's imprisoned chairman, Mahmadrusi Iskandarov, alleged that the government assisted in dividing the party in the period preceding the 2006 presidential election. All senior members of President Rahmon's government were PDPT members; most members of the country's 97-seat parliament were members of the PDPT or were otherwise considered to be supportive of the government. The only other parties represented in parliament were the IRPT and the Communist Party.

There were 16 women in parliament, and there were five representatives from minorities. Some ministries had female deputy ministers. Ethnic Uzbeks were represented in the government, although not in direct policymaking roles.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, but the government did not implement the law effectively. Officials frequently engaged in corrupt practices with impunity, and corruption and nepotism were pervasive at all levels of government.

The MOI, anticorruption agency, and Prosecutor General's Office are responsible for investigating, arresting, and prosecuting corrupt officials. The government acknowledged a problem with corruption and took steps to combat it, including putting lower-level officials on trial for taking bribes. According to the newspaper Asia-Plus, an officer from the Jilikul prosecutor's office in Khatlon province was detained on suspicion of soliciting and receiving a bribe. The anticorruption agency reported that the prosecutor received a bribe of 26,400 somoni (approximately \$6,000) from a local resident for dropping criminal cases against his relative. In October the deputy chairman of Khatlon's Jomi District was charged with corruption for allegedly taking a bribe from a person seeking to perform the hajj.

The prosecutor general investigated some cases of corruption by government employees, but the bulk of the cases involved mid- or lower-level officials, and none involved large-scale abuses. According to the anticorruption agency, the government prosecuted 115 officials for misconduct through September, but it was unclear how many of these cases were for torture or degrading punishment. Prosecutors have generally charged law enforcement officials under criminal provisions related to abuse of official powers, extracting testimony under duress, or corruption.

In December officials began a campaign to pressure public institutions, private businesses, government employees, students, and private individuals to publicly commit to purchase stocks in the government's Roghun hydroelectric power station. Although the government claimed that no individual was compelled to contribute to Roghun, many government employees reported that money was deducted from their salaries and applied to the Roghun project without their permission. Officials instructed school and hospital directors to order their employees to commit to purchase shares in Roghun in amounts ranging from 500 to 5,000 somoni (\$113-\$1,136). Some citizens stated that they feared reprisals, including termination from employment, if they refused to contribute to the Roghun project. State media began a propaganda campaign extolling individuals who committed to buy shares. Independent media outlets practiced self-censorship in covering the Roghun fundraising drive and did not publish criticism of the campaign. The government did not explain the details of the Roghun stock program, how it would manage shares, or how citizens would be able to recoup their investments.

Throughout the year the government continued to face scrutiny from the international community over apparently deliberate misappropriations involving the International Monetary Fund (IMF). IMF auditors found in 2008 that the country had misrepresented its finances and required the country to make early repayment of IMF loans. Despite evidence that the actions were deliberate, the government did not prosecute anyone. Authorities admitted the falsifications and removed Murodali Alimardon, the National Bank chief, but then awarded him the position of deputy prime minister.

Public budgets, particularly those involving major state-owned enterprises, lacked transparency. Although parliament had oversight over the budget, in practice it passed annual budgets almost without comment despite large, unexplained, and undefined expenses. For the first time, ministries and state agencies reported to parliament on implementation of the budget, but neither parliament nor the government released information on the report. It was widely believed, and privately acknowledged by government officials, that the government used proceeds from state-owned enterprises for off-budget prestige construction projects, including the Palace of the Nation in central Dushanbe.

TALCO, the state-owned aluminum smelter that consumed a significant portion of the country's energy resources and produced the country's major export, agreed to a financial audit in 2008. TALCO's off-shore management company, which reportedly was owned by senior politicians and received the bulk of the proceeds, did not undergo an audit.

The law requires government officials to provide information to journalists upon request. In practice the government did not permit free access to information, and some officials disregarded the law concerning journalists because there was no enforcement. Media organizations claimed the Law on Access to Information that parliament passed in June 2008 did not in practice give journalists greater access to official information. For example, after the legislation took effect, several ministries and agencies would not provide information unless questions were submitted in writing. Release of the information required the consent of top ministry and agency officials. Government agencies took as long as one month to provide the requested information, limiting journalists' ability to obtain information in a timely manner.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

As in previous years, domestic and international human rights groups usually were able to monitor and report on the general human rights situation in the country, including treatment of prisoners by security officials. Human rights NGOs and journalists were careful, however, to avoid public criticism of the president or other high-ranking officials.

The government continued to deny ICRC access to prison facilities. The government's Office for Constitutional Guarantees of Citizens' Rights continued to investigate and answer citizens' complaints, but staffing inadequacies and uneven cooperation from other government institutions hampered the office's effectiveness. The parliamentary committee on legislation and human rights also monitored human rights violations, but it lacked full independence from government influence. The committee's primary responsibility was to examine proposed legislation for compliance with human rights obligations, but according to observers it did not fulfill its primary responsibility to raise human rights concerns in new legislation.

In May the government opened the Office of the Human Rights Ombudsman (OHRO). In drafting legislation to create the OHRO, the government consulted with international organizations and NGOs, but the final legislation did not include provisions ensuring the OHRO's independence from government influence. The OHRO made efforts to respond to civil complaints during the year, but its limited staff and budget constrained its capacity to do so.

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

The law provides for the rights and freedoms of every person regardless of race, gender, disability, language, or social status, but in practice there was discrimination against women and persons with disabilities. Trafficking in persons remained a problem.

*Women.*—The law prohibits rape, which is punishable by as long as 20 years' imprisonment. There is no provision addressing spousal rape. Most observers believed the majority of cases were unreported. There were no official statistics on the number of rapists charged, prosecuted, or convicted. However, in November Amnesty International (AI) released the report *Violence is Not Just a Family Affair: Women Face Abuse in Tajikistan*, which stated that 42.5 percent of women reported cases of spousal rape, with perpetrators frequently justifying the act by invoking "cultural values."

Violence against women, including spousal abuse, remained a widespread problem. According to the AI report, "surveys have shown that between a third and a half of Tajik women have suffered violence from a family member. One survey showed 58 percent of wives reporting physical and/or sexual violence from their husbands, and young—often uneducated—women married in 'unregistered' ceremonies are particularly at risk. In many Tajik households women are demeaned and attacked by husbands and in-laws alike." AI also noted in the report that "unregis-



tered wives can also be divorced by husbands who simply repeat a phrase in front of two witnesses. This often leaves divorced women with nowhere to live and no source of income. In some cases wives have been divorced over the telephone by husbands working abroad who have already started new families abroad. Despite the fact that research reveals very high levels of domestic violence in the country the Tajik authorities do not compile comprehensive data on the issue and there is only one shelter for at-risk women in the entire country.”

There is no comprehensive law against domestic violence. The government has not taken adequate steps to conduct public information campaigns or to collect information on domestic violence or the needs of victims. Most cases of domestic abuse went unreported. Reported cases were seldom investigated, and few alleged perpetrators were prosecuted.

NGOs managed 44 “crisis centers” where women could seek guidance on domestic violence problems, but many centers lacked funding and resources. Local governments donated the premises for three of the shelters. The Committee for Women’s Affairs (within the Office of the President) had limited resources to assist domestic violence victims, but local committee representatives referred women to the crisis shelters for assistance.

In some rural areas officials observed an ongoing trend of female suicide; domestic abuse by in-laws or labor migration may have been contributing causes. According to the November AI report, studies have shown that domestic violence is the most frequent reason cited by women who have attempted suicide. AI also noted that law enforcement agencies often did little to assist victims of domestic violence. By law police cannot act without a written complaint from the victim, even if there were other witnesses, and police often gave only warnings, short-term detentions, or fines for committing “administrative offenses” in cases of domestic violence.

Prostitution is illegal, although in practice prostitutes who were arrested were assessed a nominal fine and released. Procurers were prosecuted.

The law prohibits sexual harassment with penalties of as long as two years’ imprisonment, but victims often did not report incidents because of fear of social stigma.

The government did not interfere with the rights of individuals and couples to plan the number, spacing, and timing of their children. According to the Population Reference Bureau (PRB), 14 percent of women between the ages of 15 and 49 used modern forms of contraception and 83 percent of births were attended by skilled personnel. The PRB also reported that 77 percent of women received postpartum care and that the maternal mortality rate was approximately 625 per 100,000 births.

Amonullo Ghoibov, secretary of the National Coordination Committee to Prevent and Fight HIV/AIDS, Tuberculosis, and Malaria noted that women in the country were becoming increasingly vulnerable to infection and that the “culture and traditions do not allow for an open discussion about sex education issues, HIV transmission routes and protection from infection.” According to the activist group Women Living Under Muslim Laws, the head of the country’s National AIDS Center stated that “traditional gender stereotypes and the subordinate status of women mean few of them get any information on sexual health and reproductive issues, let alone HIV prevention.”

The law protects women’s rights in marriage and family matters, but some female minors were pressured to marry against their will. NGOs reported that there was a high rate of polygamy, although the practice is illegal. Inheritance laws do not discriminate against women, although in practice some inheritances passed disproportionately to sons. The law provides that women receive equal pay as men for equal work, but cultural barriers continued to restrict the professional opportunities available to women.

In 2004 the country’s highest Islamic body, the Council of Ulama, issued a fatwa (religious edict) that prohibited women from praying in mosques. The government supported the fatwa but expressed concern over the separation of church and state. The IRPT continued to operate one “Friday prayer” mosque that permitted women.

In its November report, AI stated that, according to its shadow report conducted by women’s NGOs in 2006, women were underrepresented in decision-making processes at all levels of political institutions, that the higher the position the lower the female representation, and that female representation in all branches of power was less than 30 percent. AI noted that the country had no female ministers or ambassadors.

AI also noted gender segregation in employment, “with the vast majority of the working female population (86 percent) working in the low-paid sectors, such as agriculture (75 percent), public health services and education: Wages in these branches are approximately 4-7 times lower than in other spheres (as in industry,

construction, transportation and communication). Furthermore, a significant number of women of employable age are engaged in housekeeping or in the informal sector of the economy.”

*Children.*—Citizenship is derived both by birth within the country’s territory (*jus soli*) and from one’s parents (*jus sanguinis*). The government is required to register all births. Many parents do not register births until a child is ready to enter school, since birth registration is required to receive public services.

Free and universal public education is compulsory until age 16 or completion of the ninth grade. The United Nations Children’s Fund (UNICEF) indicated that school attendance was generally good through the primary grades but that girls faced disadvantages, especially in rural school systems where families elected to keep them home after primary grades to take care of siblings or work in agriculture. Underage marriage was widespread in some rural areas, and many parents directed their daughters to quit school after the ninth grade.

There was no government body assigned to address issues of violence against children. Human rights advocates were concerned that many acts of violence were unreported.

*Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking of women and children for sexual exploitation and the trafficking of men for forced labor was a serious problem. Boys and girls were trafficked internally for various purposes, including forced labor and begging. Article 130.1 of the criminal code prohibits both sexual exploitation and forced labor and prescribes penalties of five to 15 years’ imprisonment, penalties that are lower than those prescribed for other grave crimes, such as rape. Officials generally used other criminal provisions to address trafficking-related crimes, because evidence gathered abroad was generally required for cases prosecuted under article 130.1.

The country is a source for women trafficked to the United Arab Emirates, Russia, Turkey, Iran, and India for the purpose of commercial sexual exploitation. Economic migrants who traveled to Russia (and to a lesser extent Kazakhstan) for work in the construction and agricultural sectors were often exploited by unscrupulous employers and local officials. While working abroad, they were often subjected to poor living conditions, threatened with deportation, and denied the salaries they had been promised.

A report by the government’s Interagency Commission on Human Trafficking reported 22 criminal cases involving trafficking-related offenses through the first half of the year. In the first nine months of the year, one individual was prosecuted under article 130.1, three individuals under article 132 (deceptive recruitment), and nine individuals under article 9 (trade in underage persons).

Although the government created a special antitrafficking unit in the Ministry of Interior, it remained underfunded and had little capacity to investigate trafficking cases. The government reported that no convicted traffickers received suspended sentences or were granted amnesty in 2008; sentences for those serving time in prison ranged from six months’ to eight years’ imprisonment. The government worked with Russian authorities to investigate trafficking cases during the year.

The government reported limited improvements in law enforcement, although these efforts were overshadowed by the government’s failure to address serious and systemic problems, including the provision of adequate funding to antitrafficking bodies, such as the Trafficking in Persons Unit at the MOI; identification of and assistance to trafficking victims; prosecution of a significant number of traffickers; improvement in coordination between law enforcement and security institutions with overlapping responsibilities; investigation of allegations of security official abuse of three victims in 2008; and the government’s excessive reliance on the international community to conduct trafficking awareness campaigns and to ensure victims’ access to assistance and protection.

The government’s Interagency Commission on Human Trafficking coordinated government efforts to combat human trafficking. The government coordinated with the OSCE and International Office of Migration (IOM) to develop an antitrafficking course at its police academy. The government established new migration offices for its laborers working in Russian cities. The country’s consul in Dubai coordinated with the IOM to repatriate victims of trafficking.

The government demonstrated limited efforts to assist trafficking victims during the reporting period. The Ministry of Health operated eight medical support units for female victims of domestic violence and trafficking in persons. Virtually all other victim assistance and protection, including shelter, medical assistance, rehabilitative counseling, legal assistance, and vocational training, were provided by internationally funded shelters and NGOs; the government did not provide financial or in-kind assistance to any NGO or organization that provided victim assistance.

After interviewing trafficking victims upon their return to the country, government security officials referred victims to the available shelter in Dushanbe. Victims were encouraged to participate in trafficking investigations and prosecutions, but many authorities remained untrained and unskilled in interviewing and caring for victims of trafficking. Shelter officials stated they would prefer to meet with victims before security officials interviewed them. During the year internationally funded NGOs provided 44 victims with shelter and assistance, compared with 38 victims in 2008. The government made no efforts to develop and implement systematic victim identification procedures or a domestic mechanism to refer victims to care providers.

The government engaged in few trafficking prevention efforts during the year. The government operated several centers for training and advising migrant workers, but these centers were generally ill-equipped and lacked funding. In October 2008 the government produced and broadcast television programs informing potential labor migrants of their rights and practical considerations for the migration process. In 2008 officials instituted monitoring and licensing requirements for travel firms to detect or investigate firms suspected of labor trafficking complicity, and they were implemented throughout the year.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The MOL, the government's Commission on Fulfillment of International Human Rights, the Society of Invalids, and local and regional governmental structures were charged with protecting the rights of persons with disabilities.

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and provision of other state services, but public and private institutions generally did not have the resources to provide legal safeguards. There is no law mandating access to buildings for persons with disabilities, and the government did not require employers to provide such access. Although the government maintained group living and medical facilities for persons with disabilities, funding was limited, and facilities were in poor condition.

*National/Racial/Ethnic Minorities.*—Generally discrimination was not a significant problem. There were reports that some law enforcement officials harassed ethnic Afghans and Uzbeks, but such reports were not common.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Gay and lesbian relationships have been legal in the country since 1998, and the age of consent is the same as for heterosexual relationships. Throughout the country, there was significant societal discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons, and there was little to no public activism on their behalf. There were no known acts of violence against members of LGBT communities, and there were no documented cases of government discrimination against LGBT persons.

*Other Societal Discrimination.*—There was considerable societal discrimination against individuals with HIV/AIDS. The law on HIV/AIDS requires health-care providers to give HIV/AIDS patients essential medicines and treatments free of charge, but in practice many patients were denied care and socially shunned.

The government offered HIV testing free of charge at 140 facilities, and partner notification was mandatory and anonymous. The World Health Organization noted that HIV testing was systematically offered to prisoners, military recruits, street children, refugees, and persons seeking visas, residence, or citizenship.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions, and they did so in practice. The government used informal means to exercise considerable influence over organized labor, including influencing the selection of labor union leaders. The umbrella Federation of Trade Unions of Tajikistan did not effectively represent worker interests. There were reports that the government compelled some citizens to join state-endorsed trade unions and impeded formation of independent unions. According to official figures, 1.3 million persons belonged to unions, approximately 63 percent of the active work force. The law requires all NGOs, including trade unions, to be registered. The law does not specifically prohibit antiunion discrimination, but there were no reports that it occurred during the year.

Citizens were reluctant to strike due to fear of government retaliation. In March 400 workers at the Sangtuda I power station went on strike after they did not receive their salaries. After the workers were paid, they returned to work, but three of the strike organizers were fired from their jobs.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct activities without interference, except “in cases specified by law,” but the law does not define those cases. The Law on Meetings requires that meetings and other mass actions have prior official authorization, limiting trade unions’ ability to organize meetings or demonstrations. The law provides for the right to organize and bargain collectively, and workers exercised this right in practice. Ninety percent of workers were covered by collective bargaining contracts. The Law on Meetings did not restrict the right to strike, but it required that meetings and other mass actions receive prior approval from the authorities.

There are four Special Economic Zones—Khujand, Panj, Ishkoshim, and Dangara—which are granted special trade privileges and exceptions from taxation.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including of children, except in cases defined in the law, but there were reports that such practices occurred.

Local officials compelled state workers—particularly in Khatlon and Sughd regions—to pick cotton during the annual cotton harvest. Many workers were forced to sign statements certifying that their work was voluntary. Forced labor in the cotton sector remained a problem because the government continued to set a fixed price for a small cadre of investors to purchase cotton from farmers. The fixed price was well below market value, making it difficult for farmers to pay workers to pick cotton. The undervaluing of labor, and the consequent lack of voluntary laborers, led local officials to compel persons to participate in the cotton campaign. Work conditions were generally poor. The government announced that farmers were free to plant crops of their choosing during the year’s growing season. This announcement followed a 2008 presidential pronouncement aimed at reforming the country’s agricultural sector, which led to an estimated 20 percent drop in land allotted to farmers for cotton cultivation during the year. In some cases, local officials continued to force farmers to grow and pick cotton.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor remained a widespread problem, and the government did not effectively enforce child labor laws or develop a comprehensive policy to prevent or eliminate the worst forms of child labor. In 2005 UNICEF estimated that approximately 200,000 children between the ages of five and 14 were in the labor force. The highest incidences of child labor were in the domestic or agricultural sectors.

The minimum age for children to work is 16, although children may work at age 15 with local trade union permission. By law children younger than 18 may work no more than six hours a day and 36 hours per week. Children as young as seven may participate in household labor and agricultural work, which were separately classified as family assistance. Many children younger than 10 worked in bazaars or sold goods on the street.

In April President Rahmon, in his address to parliament, called for an end to forced child labor during the annual cotton harvest. Child labor continued to be employed at the local level in cotton harvesting, but to a lesser degree than in previous years. The practice of school administrators directing school children to harvest cotton became less common, although individual cases were reported. After the 2008 fall harvest, local prosecutors in Khatlon charged two local officials with pressuring schools to direct students to participate in the cotton harvest. Despite reports of forced labor, the MOL did not deploy inspection teams to investigate, and Ministry of Education officials generally did not discipline teachers or local administrators who facilitated or directed such practices. Authorities continued to deny official involvement in forced labor.

Enforcement of child labor laws is the responsibility of the Prosecutor’s Office, the MOJ, the Ministry of Social Welfare, the MOI, and appropriate local and regional governmental offices. Unions also are responsible for reporting any violations in the employment of minors. Unresolved cases between unions and employers can be brought before the prosecutor general for investigation. Few violations were reported, because most children worked under the family assistance exception.

*e. Acceptable Conditions of Work.*—The estimated average monthly wage was 322 somoni (approximately \$73), but in many sectors the average wages were far lower. In the agricultural sector, for example, the average wage was estimated at 108 somoni (\$24.50). There was no agreed-upon measure of cost of living standards, but the World Bank estimated that 53.5 percent of the population lived below the poverty line, and 17 percent lived in extreme poverty. Although statistical measures varied, the poverty line was estimated to be 139 somoni (\$40) per month, based on a 2007 joint survey by the government, the World Bank, and UNICEF. The extreme poverty line was estimated to be 89 somoni (\$25) per month. The government acknowledged the problem of low wages and provided subsidies for workers and their

families who earned the minimum wage of 60 somoni (\$17) per month. Some establishments compensated their employees with food commodities or with enterprise-produced products, which employees either sold or bartered in local markets.

The law provides for a standard work week of 40 hours for adults older than 18. The law mandates overtime payment, with the first two hours paid at one and half times the normal rate and the remainder at double the rate. Overtime payment was inconsistent in all sectors of the labor force. The Ministry of Finance enforces financial aspects of the labor law, and the Agency of Financial Control of the presidential administration oversees other aspects of the law.

There are laws that establish relatively strict occupational health and safety standards. In practice the government did not fully comply with these standards, partly because of the degree of corruption and the low salaries paid to inspectors. The State Technical Supervision Committee under the Council of Ministers was responsible for enforcing health and safety standards. The law permits workers to remove themselves from hazardous conditions without risking loss of employment. This law was not enforced effectively, and in practice few workers removed themselves.

Farmers and agricultural workers, accounting for approximately 50 percent of the workforce, continued to work under difficult circumstances. There was no system to monitor or regulate working conditions in the agricultural sector. Wages were low, and many workers were paid in kind. Despite some changes, the government's failure to introduce and implement comprehensive property and land usage reforms continued to limit its ability to protect agricultural workers' rights.

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## TURKMENISTAN

Although the constitution declares the country to be a secular democracy and presidential republic, it is an authoritarian state of approximately five million that was dominated by President-for-life Saparmyrat Niyazov until his death in December 2006. The now-disbanded People's Council selected six candidates for the February 2007 presidential election. All those selected were members of the Democratic Party, the country's only political party, and Gurbanguly Berdimuhamedov won in an election that did not meet international standards. December 2008 parliamentary elections also fell short of international standards. Civilian authorities generally maintained effective control of security forces.

Although there were modest improvements in some areas, the government continued to commit serious abuses, and its human rights record remained poor. Authorities continued to restrict political and civil liberties. Human rights problems included citizens' inability to change their government; reports of torture and mistreatment of detainees; incommunicado and prolonged detention; arbitrary arrest and detention; denial of due process and fair trial; arbitrary interference with privacy, home, and correspondence; restrictions on freedom of speech, press, assembly, and association; restrictions on religious freedom, including continued harassment of religious minority group members; restrictions on freedom of movement for some citizens, including increased restrictions on those intending to study abroad; violence against women; and restrictions on free association of workers.

### RESPECT FOR HUMAN RIGHTS

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

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

There were no updates on the 2007 reports of citizens who died under suspicious circumstances during detention, including the cases of an allegedly drunk suspect who died in police custody in Mary Province and a man who died in an Ashgabat detention center while awaiting an appeal decision.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, security officials trying to extract confessions from detainees tortured, beat, and used excessive force against criminal suspects, prisoners, and individuals critical of the government.

An October 2008 decision of the European Court of Human Rights (ECHR) stated that "any criminal suspect held in custody ran a serious risk of being subjected to torture or inhuman or degrading treatment." The ECHR also reported that the country lacked an effective system to prevent torture.

In contrast with previous years, there were no reports during the year that authorities detained persons in psychiatric hospitals as punishment. There was no further information regarding a July 2008 report that Nurmamed Agayev, a Muslim prayer leader who was arrested in 2006, was held in a psychiatric hospital in Lebap.

Hazing of military conscripts remained a problem and led to desertions from units where conditions were particularly harsh. According to a 2006 report from the Institute for War and Peace Reporting, corruption within the defense ministry and draft commissions, tribal- and ethnicity-based rivalries, and disregard for the rights of soldiers led to an increasing number of deaths from soldiers abusing fellow conscripts. Regular military units continued to be used as unpaid manual labor working in fields, hospitals, factories, and construction sites.

*Prison and Detention Center Conditions.*—Prison conditions were poor; prisons were unsanitary, overcrowded, and unsafe. According to a civil society source, a women's prison near Dashoguz built for 800 prisoners held approximately 2,000. Disease, particularly tuberculosis (TB), was rampant. There continued to be concerns that the government did not adequately test and treat prisoners with TB before they were released into the general population, although the government reportedly screened prisoners for TB and other diseases. The government reportedly transferred prisoners diagnosed with TB to a special Ministry of Interior hospital in Mary Province for treatment and arranged for ongoing treatment for released prisoners at their residences. The nutritional value of prison food was poor, and prisoners depended on relatives to supplement inadequate food. There were reports that prison officials sometimes confiscated these food parcels.

Prisoners convicted for treason were unable to receive supplies from relatives. There was no further information concerning a 2007 report that individuals convicted of complicity in the 2002 attack on the former president's motorcade were given supplemental food packages for the first time since they were imprisoned.

In 2007 family members and international nongovernmental organizations (NGOs) claimed that some prisoners died due to a combination of overcrowding, untreated illnesses, and lack of adequate protection from summer heat.

Sources familiar with prison conditions at Owadan Depe Prison reported that former high-level officials continued to be denied proper medical treatment and suffered beatings and verbal intimidation to coerce confessions.

There are three types of incarceration facilities: educational labor colonies, correctional labor colonies, and prisons. In correctional labor colonies, relatives of prisoners reported excessive periods of prisoner isolation.

Authorities held prisoners connected with the 2002 attack separate from the general prison population at the Owadan Depe Prison. During the year government officials continued to disregard inquiries from family members and foreign diplomats about political prisoners' locations or condition. Government officials continued to refuse to permit family members, foreign diplomats, or international observers, including the International Committee of the Red Cross (ICRC), access to detainees or prisoners associated with the 2002 attack. The government and the ICRC were unable to agree on acceptable conditions for prison visits. As a result, the ICRC did not conduct any prison visits during the year. Prisoners' family members reported that the government also held political prisoners in facilities near Turkmenbashi and in Mary Province.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, they remained serious problems.

*Role of the Police and Security Apparatus.*—The Ministry of Internal Affairs directs the criminal police, who work closely with the Ministry of National Security (MNB) on matters of national security. The MNB controls personnel changes in other ministries and enforces presidential decrees. Both the MNB and criminal police operated with impunity. Corruption existed in the security forces.

Since President Berdimuhamedov created it in 2007, the presidential commission to review citizens' complaints of abuse by law enforcement agencies has conducted no known inquiries in which members of the security forces were held accountable. In 2007 the commission reviewed only three cases that led to further review by the Supreme Court and reductions of citizens' sentences. In 2007 the president, who chairs the commission, publicly fired and later arrested the chairman of the Supreme Court, who served as deputy chairman of the commission, in part for failure to ensure that cases coming to the commission received proper review. In the same year the president fired the minister of internal affairs, reportedly because of an alleged doubling of cases involving ministry corruption and abuse under review by the commission.

*Arrest Procedures and Treatment While in Detention.*—A warrant is not required for arrest when a suspect is caught in the act of committing the offense. The pros-

ecutor general issues an authorization for arrest within 72 hours of detention. If, within 10 days of detention, investigating authorities do not find proof of guilt, they must release the detainee. If evidence of guilt is found, the investigation can last as long as two months. A provincial- or national-level prosecutor may extend the investigation period to six months. The national prosecutor general or deputy prosecutor general may extend the investigation period to a maximum of one year. Following the investigation the prosecutor prepares a bill of indictment and the case is transferred to the court. These procedures were generally respected in practice, and the prosecutor promptly informed detainees of the charges against them.

A new Criminal Procedure Code (CPC) adopted in April provides for a bail system and surety; however, these provisions were not implemented. Detainees were entitled to immediate access to an attorney after a formal accusation was issued, and they were able to choose their counsel. In practice they did not always have prompt or regular access to legal counsel. Authorities denied some prisoners visits by family members during the year. Families sometimes did not know the whereabouts of imprisoned relatives. Incommunicado detention was a problem. The scope of these problems in the criminal justice system was unclear. Authorities legally had to issue a formal indictment within 10 days of arrest to hold detainees longer. However, authorities did not adhere to these provisions in practice.

The law characterizes any opposition to the government as treason. Those convicted of treason face life imprisonment and are ineligible for amnesty or reduction of sentence. However, there were no known treason convictions. The government arrested and filed charges against those expressing critical or differing views.

Pretrial detention legally could last no longer than two months, but in exceptional cases it could be extended to one year if an investigator made such a request to the prosecutor general. For minor crimes a much shorter investigation period applies. In contrast to previous years, authorities rarely exceeded legal limits for pretrial detention. In the past chronic corruption and cumbersome bureaucratic processes contributed to lengthy trial delays; however, the government's anticorruption efforts and the establishment of the Academy of State Service to improve state employees' qualifications generally eliminated such delays.

Although in past years the government detained regime opponents under house arrest without due process, no provision in the CPC authorizes such punishment. The law does provide for internal exile, requiring an individual to reside in a certain area for a fixed term of two to five years. At year's end the status of individuals previously placed under house arrest, including NGO leaders, relatives of those suspected of involvement in the 2002 attack, and some of the 100 individuals prevented from meeting with the Organization for Security and Cooperation in Europe (OSCE) in 2003, was unknown.

*Amnesty.*—The government pardoned 990 prisoners on February 19 in honor of Flag Day; 1,671 prisoners on May 14 for the Day of Revival, Unity and Magtymguly Pyragy's Poetry; 1,284 on September 9 in advance of the Night of Omnipotence holiday; and 3,934 on December 2 in honor of Neutrality Day. No prisoners of international concern or prisoners associated with the 2002 attack on the former president's motorcade were released.

It was unknown whether amnestied prisoners still had to swear an oath of allegiance to the *Ruhnama*, former president Niyazov's spiritual guidebook on the country's culture and heritage.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; in practice the judiciary was subordinate to the president. There was no legislative review of the president's judicial appointments and dismissals, except for the chairman (chief justice) of the Supreme Court, whom parliament nominally reviewed. The president had sole authority to dismiss any judge before the completion of his or her term. The judiciary was widely reputed to be both corrupt and inefficient.

The court system consists of a Supreme Court, six provincial courts (including one for Ashgabat), and 64 district and city courts. Civilian courts, under the authority of the Office of the Prosecutor General, tried members of the armed forces for criminal offenses.

*Trial Procedures.*—The law provides due process for defendants, including a public trial, access to accusatory material, the right to call witnesses to testify on their behalf, a defense attorney or a court-appointed lawyer if the defendant cannot afford one, and the right to represent oneself in court. In practice authorities often denied these rights. Defendants frequently did not enjoy a presumption of innocence. There was no jury system. The government permitted the public to attend most trials but closed some trials, especially those it considered politically sensitive. There were few independent lawyers available to represent defendants. The CPC provides that a defendant be present at his or her trial and consult with his or her attorney in a time-

ly manner. The law sets no restrictions on a defendant's access to an attorney. If a defendant cannot afford to pay for attorney's services, an attorney is provided at public expense. The court at times did not allow a defendant to confront or question a witness against him or her and denied the defendant and his or her attorney access to government evidence. In some cases courts refused to accept exculpatory evidence provided by defense attorneys, even if that evidence would have changed the outcome of the trial.

Even when the courts observed due process, the authority of the government prosecutor far exceeded that of the defense attorney, making it difficult for the defendant to receive a fair trial. Court transcripts were frequently flawed or incomplete, especially when defendants' testimony had to be translated from Russian to Turkmen. Defendants could appeal a lower court's decision and petition the president for clemency. In most cases courts ignored allegations of torture when defendants raised such allegations in trial. There were credible reports that judges often predetermined the outcome of the trial and sentence.

There were regular reports that police would arrest an individual and request he or she pay a fine for breaking a specific law. When a citizen asked to see the law, police or other government officials refused or stated the laws were secret.

*Political Prisoners and Detainees.*—On May 2, the government released Mukhametkuli Aimuradov, imprisoned since 1995 for antistate crimes, including attempted terrorism.

There was no further information about the case of former civil activist and former political prisoner Gulgeldy Annaniyazov, whom authorities arrested in June 2008 after he reentered the country and sentenced in a closed court trial the next month to 11 years in prison. Annaniyazov received asylum in Norway in 2002 after serving five years in a Turkmenbashi prison for his role in a 1995 political demonstration.

There was no further information regarding the cases of journalists Annakurban Amanklichev and Sapardurdy Hajiyev, who remained in jail. In 2006 authorities charged them and journalist Ogulsapar Myradova with weapons possession after they received journalism equipment from foreign sources. They were sentenced in a closed trial to six to seven years' imprisonment. Radio Free Europe/Radio Liberty (RFE/RL), the Turkmenistan Helsinki Foundation, and several other human rights organizations claimed the journalists were charged with criminal activities to block their reporting. In 2006 Myradova died in police custody under suspicious circumstances.

Opposition groups and some international organizations claimed the government held political prisoners and detainees, although the precise number of these individuals—who included persons convicted of involvement in the 2002 attack—remained unknown. Among those individuals from 2002 was a former ambassador to the OSCE, Batyr Berdiev, whose whereabouts and fate remain unknown. In 2008 there were reports that the government held approximately 360 individuals in Owadan Depe prison for their perceived political opinions and alleged involvement in the 2002 attack. Human rights observers called conditions at Owadan Depe Prison among the worst in the country, and there were reports that prison officials subjected prisoners to torture and other forms of abuse.

There was no further information on 2007 reports that some prisoners accused of economic crimes, including a number of former senior government ministers, might have been moved from Owadan Depe Prison to Mary Prison. Government officials continued to ignore inquiries from family members and foreign diplomats about many prisoners' locations or condition. Government officials also continued to prevent family members, foreign diplomats, and international observers such as the ICRC from accessing detainees or prisoners associated with the 2002 attack.

*Civil Judicial Procedures and Remedies.*—The civil judiciary system was neither independent nor impartial; the president appointed all judges. According to law, evidence gathered during a criminal investigation can be used as the basis for a civil action in a process called "civil lawsuit in criminal justice." There were reports of bribes in the civil court system to ensure a particular outcome. In cases in which the state had interests regarding an individual citizen, it imposed court orders. The most commonly enforced court orders were eviction notices.

*Property Restitution.*—The government failed to enforce the law consistently with respect to restitution or compensation for confiscation of private property. In February 2007 President Berdimuhamedov announced there would be no housing demolition unless replacement housing was available. However, during the year the government demolished some private homes in and around Ashgabat as part of an urban renewal program without adequately compensating the owners.



As in previous years, there were reports that the government gave persons as few as 72 hours to vacate their homes and did not provide homeowners with alternative accommodations or compensation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, authorities frequently did not respect these prohibitions in practice. In some cases authorities forcibly searched the homes of suspected regime opponents and some minority religious group members without independent judicial authorization. The law does not regulate surveillance by the state security apparatus, which regularly monitored the activities of officials, citizens, opponents and critics of the government, and foreigners. Security officials used physical surveillance, telephone tapping, electronic eavesdropping, and informers. The government reportedly intercepted surface mail before delivery, and letters and parcels taken to the post office had to remain unsealed for government inspection.

A noncitizen may marry a citizen only after residing in the country for one year.

Individuals who were harassed, detained, or arrested by authorities, and their family members continued to report that the government caused family members to be fired from their jobs or expelled from school and that authorities sometimes detained and interrogated the family members.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, but the government did not respect these rights in practice. The government warned critics against speaking with visiting journalists or other foreigners about human rights problems. There were reports that law enforcement officials harassed and detained Turkmen journalists who worked for foreign media outlets.

Almost all print media were government financed. Except for the private but government-sanctioned Turkish newspaper Zaman, which reflected the views of the state newspapers, the government imposed significant restrictions on the importation of foreign newspapers.

The government controlled radio and local television, but satellite dishes providing access to foreign television programming were widespread throughout the country. Citizens also received international radio programs through satellite access.

During the year government agents reportedly detained, harassed, and intimidated journalists and their families. In particular, journalists working for RFE/RL reported frequent surveillance and harassment by government authorities.

During the year there were several reports that the government used restrictions on travel abroad to punish independent journalists and individuals who openly criticized the government. The government also restricted the travel of journalists' family members. In 2008 the government barred four RFE/RL reporters from travelling abroad.

There were no updates concerning the case of RFE/RL correspondent Soltan Achilova. In January 2008 authorities interrogated Achilova for two days, accusing her of producing reports critical of national policy. They released her after she signed an agreement to stop working for RFE/RL until she obtained formal press accreditation. Although RFE/RL requested accreditation on Achilova's behalf, by year's end authorities had not responded to the request.

There were no updates concerning the case of RFE/RL reporter Gurbandurdy Durdykulyev. In late April 2008, a Molotov cocktail struck Durdykulyev's house in Balkanabat. Three of the house's outer walls were painted with obscene graffiti, including the word "traitor," paint was poured on his car, and human feces were smeared on his front door.

Throughout the year the government continued intermittent harassment of RFE/RL reporter Halmyrat Gylychdurdyev. Authorities monitored his activities, harassed his family, and periodically disconnected his mobile telephone service. In April 2008 security officials sought to disrupt the wedding of a family member of Gylychdurdyev.

There were no updates concerning the case of RFE/RL reporter Osman Halliyev. In July 2008 Halliyev reported that security authorities pressured administrators at the Azadi Foreign Language Institute to expel his son because Halliyev refused to stop working for RFE/RL. Several family members were dismissed from their employment, and Halliyev remained under constant surveillance.

During the year, as in previous years, the government required state journalists to obtain permission to cover specific events as well as to publish or air the subject matter they had covered.

Domestic journalists and foreign news correspondents engaged in self-censorship due to fear of government reprisal. The government continued to censor newspapers

and prohibit reporting of opposition political views or of any criticism of the president.

To regulate domestic printing and copying activities, the government required all publishing houses and printing and photocopying establishments to obtain registration licenses for their equipment. The government required the registration of all photocopiers and mandated that a single individual be responsible for all photocopying. The government owned all publishing companies. The government censored works on topics that were out of favor with the government, including some works of fiction.

The government continued its ban on subscriptions to foreign periodicals by non-governmental entities, although copies of the Russian newspaper *Argumenti I Fakti* and other nonpolitical periodicals appeared occasionally in the bazaars.

There was no independent oversight of media accreditation, no defined criteria for allocating press cards, no guarantee of receiving accreditation when space was available, and no protection against the withdrawal of accreditation for political reasons. The government required all foreign correspondents to apply for accreditation. It granted visas to journalists from outside the country only to cover specific events, such as international conferences and summit meetings, where their activities could be monitored. Authorities denied some journalists accreditation, although at least five journalists representing foreign media organizations were accredited. Turkish news services had eight correspondents in the country, at least five of whom reportedly were accredited. As many as 13 correspondents representing foreign media services operated without accreditation. Visiting foreign journalists reported harassment and denial of their freedom of movement when they attempted to report outside official channels.

*Internet Freedom.*—During the year Internet access for the general population increased to approximately 70,000 users, according to the International Telecommunication Union. Government-owned Turkmentelecom remained the main provider to the general population, but its service was monitored and filtered.

The government continued to monitor citizens' e-mail and Internet activity, and reports indicated that the Ministry of National Security controlled the main access gateway, monitored users' browsing, and blocked access to certain sensitive Web sites, cutting service in certain cases. The Russian cellular company MTS reportedly provided unfettered mobile Internet service to its customers; however, the price was prohibitively high for most citizens.

The public could access the Internet through 15 state-owned Internet cafes nationwide. The cafes offered controlled access and blocked politically sensitive and pornographic Web sites.

*Academic Freedom and Cultural Events.*—The government did not recognize academic degrees received abroad, except those obtained abroad through intergovernmentally approved education programs. Only government-selected students were allowed to participate in intergovernmentally approved exchange programs. The Ministry of Education did not recognize degrees from nonstate institutions of higher education in former Soviet Union countries. The Ministry of Education (MOE) closely scrutinized exchanges at the university level, and according to the new law, the Council of Ministers must approve all programs.

During the year the MOE took no action on the president's 2007 request that the ministry facilitate recognition of foreign degrees, apart from the earlier established process of validation, based on passing *Ruhnama*, *History of Turkmenistan*, and specialization exams in Turkmen. The validation process was available only for degrees from state higher educational institutions that offered a full-time enrollment program.

Beginning in late July, the government began denying freedom of movement to more than 150 Turkmen students studying at the American University of Central Asia in Bishkek. The students were not allowed to depart Turkmenistan to continue their studies there or at other universities abroad. There were widespread reports that students attempting to depart for overseas university study were also denied exit permission and that authorities threatened families as a way to pressure some students who were abroad to return home.

The government did not tolerate criticism of government policy or the president in academic circles and curtailed research into areas it considered politically sensitive, such as comparative law, history, ethnic relations, and theology. University enrollment totaled approximately 4,300 students at all higher educational institutions, compared with 4,000 students in 2008.

Officials from the MOE and provincial authorities sought to prevent students who were not ethnic Turkmen from entering exchange programs.

The school curriculum continued to include works by Niyazov, such as the *Ruhnama*, and students were required to pass examinations on them for advancement, graduation, or admission to higher educational institutions. However, teachers reported that administration required them to spend substantially less class time studying Niyazov's works than in the past and instead began introducing books and speeches by President Berdimuhamedov into the curriculum. During the year *Ruhnama* studies as a separate course was discontinued for senior grades, but was still required for primary school students. The newspaper *Mugallymlar gazet*i (Teachers' Newspaper) published the new government-provided curriculum for schools.

Most secondary school textbooks were revised to remove all text devoted to Niyazov and his family; however, a picture of Niyazov continued to appear on the first page of each textbook. Text devoted to President Berdimuhamedov's "New Revival" ideology replaced the previous text on Niyazov and his family. Despite a 2008 MOE report stating that all textbooks had been completely revised, only one-third had been revised at year's end.

The government continued to require teachers and students to participate in state-sponsored extracurricular events, and approximately 70 to 80 academic days per year were allocated to compulsory participation in festivals and greetings for high-level visitors, significantly reducing instruction time. This previously informal practice was formalized at secondary schools by requiring teachers to sign an agreement accepting salary cuts for not participating in these government events. Participating students were given the equivalent of "A" for the day, which provided further incentive to attend the event rather than be in the classroom.

The government created a formalized mechanism for content censorship by establishing a separate government committee to approve all cultural products produced in the country for the general public, including books, movies, theatrical plays, art, and any other cultural program.

Although restrictions eased somewhat, the government continued to control attendance at nonindigenous cultural events and refused to permit the production of some foreign plays and performances in state theaters. Only the Russian theater in Ashgabat continued to stage foreign plays in Russian, and those plays were invariably apolitical.

The Ministry of Culture censored and monitored all public exhibitions, including music, art, and cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, but the government restricted this right in practice. Authorities neither granted the required permits for public meetings and demonstrations during the year nor allowed unregistered organizations, particularly those perceived to have political agendas, to hold demonstrations.

*Freedom of Association.*—Although the constitution and law provide for freedom of association, the government restricted this right in practice. The law requires all NGOs to register with the Ministry of Justice (MOJ) and all foreign assistance to be registered with the MOJ and the Ministry of Economics and Development and coordinated through the Ministry of Foreign Affairs. Unregistered NGO activity is punishable by a fine, short-term detention and confiscation of property. As in previous years, the government routinely denied registration to NGOs and other private organizations for what appeared to be arbitrary reasons.

During the year there were no reports that the government registered any new civic organizations.

Of the 89 registered NGOs, international organizations considered seven to be independent. NGOs reported that the government continued to present numerous administrative obstacles to NGOs that attempted to register. Some applications were repeatedly returned on technical grounds. Some organizations awaiting registration found alternative ways to carry out activities, such as registering as businesses or subsidiaries of other registered groups, but others temporarily suspended or limited their activities.

In 2008 authorities in Lebap Province advised two community groups against cooperation with an international NGO. Local security authorities in Dashoguz Province advised a community activist not to accept grants from international organizations.

In 2007 security service officials continually harassed NGOs and their local partners. In April and May 2007, authorities closed several information and resource centers in the central Ahal region that an international NGO operated; one was later allowed to reopen. Authorities terminated cooperation between an NGO and local community groups twice in 2007, advised two community groups against co-

operating with an NGO, terminated training the NGO was providing, and questioned its local point of contact.

No independent political groups existed (see section 3). The only registered political party was the ruling Democratic Party, the former Communist Party of Turkmenistan. The government did not prohibit membership in political organizations; however, in practice there were no reports of persons who claimed membership in political organizations other than the Democratic Party.

In contrast with previous years, there were no reports during the year that government authorities harassed recipients of foreign grants.

*c. Freedom of Religion.*—The constitution and law provide for freedom of religion; however, the government restricted this right in practice. There is no state religion, but the majority of the population is Sunni Muslim. The government incorporated some aspects of Islamic tradition into its efforts to define a national identity. In practice the government closely controlled and monitored all religious activities and placed some restrictions on Muslims. The government required all religious groups as well as individual mosques and churches to register with the MOJ and continued to monitor of financial and material assistance to religious groups from foreign sources. Some groups reported confusion over registration requirements for individual branches of religious groups due to conflicting statements by government officials from different ministries.

During the year religious groups continued to encounter persistent administrative hurdles to registration. One Islamic religious group was registered during the year. At least six groups that had applied for registration continued to be denied legal status. Other unregistered religious congregations, including separate groups of Baptists and evangelical Christians, existed, although the government restricted their activities. The government officially prohibited unregistered groups from conducting religious activities. According to the government-appointed Council on Religious Affairs (CRA), Shia Muslim groups were allowed to register collectively as one organization.

The Catholic Church remained unregistered because local law requires the head of a local religious organization to be a citizen. However, authorities eased their harassment of the church. Church leaders conducted regular masses and held classes on Catholicism for interested ethnic Turkmen as well as citizens of other ethnicities.

The CRA reports to the president and ostensibly acts as an intermediary between the government and registered religious organizations. The CRA includes representatives of the government, Sunni Islam, and the Russian Orthodox Church, but no other religious groups. In practice the CRA acted as an arm of the state, exercising direct control over hiring, promotion, and firing of Sunni Muslim and Russian Orthodox clergy and monitoring all religious publications and activities. A January report by the UN special rapporteur on freedom of religion or belief encouraged the government to revise its Law on Religion to bring it into greater conformity with international human rights standards and recommended the CRA be more inclusive and independent.

Both registered and unregistered minority religious communities experienced difficulty in obtaining facilities where they could worship. Legal and governmental obstacles hindered or prevented registered and unregistered religious groups from purchasing or renting land or buildings for worship or meetings. Although the law specified that residential premises not be used for other purposes, some religious groups meeting in homes reported no interference, while others faced harassment.

The government continued occasionally to harass and threaten registered and unregistered minority religious groups. Examples of harassment included government agents disrupting religious services and interrogating and detaining group members and pressing them to abandon their beliefs. The government threatened members of minority religious groups with fines, loss of registration, loss of employment and housing, and imprisonment because of their beliefs. There were also reports of raids and the seizure of religious materials. However, the only instance of reported physical abuse led to an unprecedented punishment of the police officer involved. On May 6, Jehovah's Witnesses reported a Turkmenabad police officer beat and abused a member whose mother subsequently reported the incident to the local public prosecutor. The prosecutor reportedly summoned the police officer and ordered him to pay damages of approximately eight million manat (\$540).

Members of Jehovah's Witnesses and other minority religious groups reportedly continued to experience police harassment including disruption of meetings, raids; surveillance; detentions; and administrative fines. Nevertheless, some registered and unregistered religious minority group members indicated mistreatment has diminished considerably during recent years. Registered minority religious groups reported little harassment. The leader of one unregistered group reported the group's

adherents generally gathered in private apartments and police no longer raided or fined them as in the past.

Despite the government's embrace of certain aspects of Islamic culture, the government was concerned about foreign Islamic influence and local believers' interpretation of Islam. The government controlled the establishment of Muslim places of worship and limited access to Islamic education.

The government officially banned only extremist groups that advocate violence, but it effectively prevented all groups advocating stricter interpretations of Islamic religious doctrine, which it also regarded as extremist, from operating. The government did not officially restrict persons from changing their religious beliefs and affiliation, but police officers and other government officials sometimes subjected ethnic Turkmen who converted to Christianity to harassment and mistreatment, such as verbal abuse.

Reports continued that the government obstructed travel based on affiliation with religious minority groups. Turkmen Evangelical Church Pastor Ilmyrat Nurliyev continued to be barred from travel abroad.

Although the government had not permitted visits by foreign religious officials since 2007, during the year the government granted at least three registered minority religious groups permission for the visit of a foreign religious leader to conduct religious services for the group. The government prohibited foreign missionary activity, although both Christian and Muslim missionaries were present. It also prohibited proselytizing by unregistered religious groups; however, for the first time, two minority religious groups reported they were able to proselytize in the form of "street evangelism," or going door-to-door, without interference from the authorities.

There was no official religious instruction in public schools. Unregistered religious groups and unregistered branches of registered religious groups were prohibited from providing religious education. Extracurricular religious education was allowed only with CRA and presidential permission, and there were no reports that either the CRA or the president approved such programs.

The government controlled access to Islamic education. The theology faculty in the history department at Turkmen State University in Ashgabat was the only academic faculty the government permitted to conduct Islamic education.

The government no longer required mosques to display the Ruhnama; however, phrases from the Ruhnama were still inscribed on the walls of a large mosque in Gypjak. The government did not allow the publication of religious literature and limited the availability of Korans, Bibles, and other religious literature. In practice the CRA must approve imported religious literature. Government representatives informed religious groups they could only import religious literature in quantities corresponding to the number of registered congregants.

The government does not offer alternative civilian service, permitted under the law until 1995, for conscientious objectors. Individuals who refused military service for religious reasons were offered noncombatant roles within the military. In July courts tried two Jehovah's Witness conscientious objectors in Dashoguz Province and sentenced them to two years in prison. This followed the imprisonment in May of two Jehovah's Witness conscientious objectors from Serdar for refusing military service. They were both sentenced to two-year prison terms. In January the UN special rapporteur on freedom of religion or belief recommended that the law be revised to provide civilian service as an alternative to compulsory military service for conscientious objectors.

*Societal Abuses and Discrimination.*—There were an estimated 700 Jews, predominately in Ashgabat, but no organized Jewish community. There were no reports of anti-Semitic acts.

Ethnic Turkmen who chose to convert from Islam to other religious groups were viewed with suspicion and sometimes ostracized.

There were reports that members of nontraditional minority religious groups were forced to resign from government jobs.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law do not provide for full freedom of movement. The law requires internal passports and residency permits. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, stateless persons, and other persons of concern. The president eliminated police checkpoints on major roads soon after his inauguration in February 2007, and in July 2007 he lifted controls requiring citizens to obtain permits for internal travel

to border regions. The border permit requirement remained in effect for all foreigners.

Although citizens are not allowed to hold dual citizenship, this requirement has not been enforced in practice. However, persons indicating on applications for new passports that they are dual citizens reportedly have not been issued new passports, whereas persons with only Turkmen citizenship have received passports.

The government denied it maintained a list of persons not permitted to depart the country; however, it continued to bar certain citizens from departing. A 2005 migration law forbids travel by any citizen who has access to state secrets, has falsified personal information, has committed a serious crime, is under surveillance, might become a trafficking victim, has previously violated the law of the destination country, or whose travel contradicts the interests of national security. The education law allows the government to impose limitations on obtaining education in specific professions and specialties, which has been applied to prevent students from travelling abroad to study.

Citizens were able to inquire at the State Migration Service (SMS) about their travel status; however, those who inquired rarely received information. A few students who had been barred from travel abroad reportedly were able to avoid the restriction by bribing government officials.

In January authorities stopped the son of an RFE/RL reporter from departing to study in Canada. Authorities at the airport referred him to the SMS, but the SMS did not provide a reason for the travel ban.

The law permits forced internal exile, and at year's end some former government ministers and other officials who had been dismissed from their positions and sent into internal exile in previous years remained detained in a designated area. Almost all political opponents of the government lived in other countries for reasons of personal safety.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system to provide protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government granted refugee or asylum status to some ethnic Turkmen from Afghanistan and Tajikistan and to other groups of ethnic Uzbeks and Russians. There were 125 UNHCR-mandate refugees in the country. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention or the 1967 Protocol. The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

*Stateless Persons.*—The UN Development Program (UNDP) reported there were few stateless persons in the country. However, the UNDP estimated there may be as many as 9,000 undocumented residents who held Soviet Union passports when the Soviet Union dissolved and who did not have a state affiliation selected when those passports expired in 1999. The government administratively processed these residents and issued them residency permits while considerations of state affiliation continued. The UNDP could not easily quantify these persons because they had not sought UNDP assistance, nor had they sought a change in their status. The UNHCR considered these individuals as de facto stateless or at risk of becoming stateless.

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

Citizens could not freely choose and change the laws and officials that governed them. The constitution declares the country a secular democracy in the form of a presidential republic. It calls for separation of powers among the branches of government but vests a disproportionate share of power in the presidency. In practice the president's power over the state continued to be absolute; he made all important decisions.

According to the OSCE, the election law does not meet OSCE standards.

*Elections and Political Participation.*—Local council (“gengesh”) elections were held in July in rural areas under a law that had been revised in April to bring electoral procedures into line with the 2008 constitution and electoral law.” The 2008 constitution gave broader powers to the Mejlis (parliament), increased the president's powers, and abolished the Halk Maslahaty (Peoples' Council) as a political body.

In October 2008 the government also adopted a revised Mejlis election law that incorporated some international standards, including eliminating negative voting, permitting the nomination of candidates by community groups, and granting the right to vote to detainees not yet convicted of a crime. In December 2008 parliamentary elections were held for deputies to the Mejlis. For the first time, the government invited international observers to monitor the election process. The elections did not meet OSCE standards for free, fair, transparent, and competitive elections.

At year's end former Parliamentary Chairman Ovezgeldy Atayev remained in prison. Under the constitution, after the December 2006 death of former President Niyazov, Atayev should have become the interim president. However, Gurbanguly Berdimuhamedov was named instead, and authorities initiated a criminal investigation against Atayev.

In February 2007 citizens selected Berdimuhamedov president in an election that did not meet international standards. The OSCE noted the following problems: lack of political pluralism, restrictions on the right of citizens to run for president, lack of provisions regulating the media coverage of the campaign, prohibition against failed candidates contesting a repeat election, and negative voting, a requirement that voters cross out the names of all candidates except the name of the chosen candidate. Although the government did not legally prohibit membership in political organizations, it banned all political parties other than the president's Democratic Party. The government continued to ban political opposition in the country.

There were 21 women in the 125-member parliament, including the Mejlis chairman, who was reelected in 2008. Women served in a few prominent government positions: deputy chairman of the Cabinet of Ministers for Culture and Television (a vice premier position), minister of education, director of the State Archives, director of the Institute for Democracy and Human Rights, the chairpersons of two of five parliamentary committees, the chairperson of the state publishing service, and head of the state news agency.

The government gave preference for appointed government positions to ethnic Turkmen, but ethnic minorities occupied several high government positions. Members of the country's largest tribe, the president's Teke tribe, held the most prominent roles in cultural and political life.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials reportedly often engaged in corrupt practices with impunity. Widespread corruption existed in all social and economic sectors. Factors included the existence of patronage networks, a lack of transparency and accountability mechanisms, and fear of government reprisal. According to the World Bank's Worldwide Governance Indicators, the country had a severe corruption problem. Transparency International's 2009 Corruption Perceptions Index reported that experts perceived rampant corruption among the country's public officials.

The president dismissed numerous ministers and government officials from their positions; some were investigated and arrested for alleged malfeasance, although a lack of information about their cases made it difficult to determine whether their arrests were politically motivated. The government reportedly sentenced a senior government official in the oil and gas sector to prison for corruption.

There is no law that allows for public access to government information, and in practice the government did not provide access. Authorities denied requests for specific information on the grounds that the information was a state secret. Some statistical data were considered state secrets. There was no public disclosure of demographic data, and published economic and financial data were manipulated to justify state policies and expenditures.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no domestic human rights NGOs due to the government's refusal to register such organizations and to government restrictions that made activity by unregistered organizations illegal. During the year the government continued to monitor the activities of nonpolitical social and cultural organizations.

There were no international human rights NGOs with a continued permanent presence in the country; however, the government permitted international organizations, including the OSCE and the UNHCR, to have resident missions. Government restrictions on freedom of speech, press, and association severely restricted international organizations' ability to investigate and criticize the government's human rights policies. The government appeared to have relaxed somewhat its past efforts to control citizens' access to international organizations and missions and to discour-

age citizens from cooperating with foreigners. During the year the OSCE reported there had been no perceptible restrictions on citizens' ability to visit and participate in OSCE Center activities. In October 2007 the OSCE reported the government had stopped impeding ordinary citizens from visiting the OSCE Center or participating in OSCE-sponsored civil society-themed seminars and activities.

In January the UN special rapporteur on freedom of religion or belief published a report on her September 2008 official visit to the country. During the visit she met with the president; other national, regional, and local government representatives; the chairman of parliament; members of the Supreme Court; and a variety of registered and unregistered religious group representatives. The NGO Human Rights Watch reported security services had warned representatives of at least three religious communities in Ashgabat not to meet with the special rapporteur during her visit.

The government-run Institute for Democracy and Human Rights (IDHR) played an unofficial ombudsman's role to resolve some citizen human rights-related petitions during the year. In 2007 the government established the Human Rights Commission, which reports to the president, to oversee institutional human rights reform. In 2005 the president established the parliamentary Committee on the Protection of Human Rights and Liberties to oversee human rights-related legislation. The IDHR, also subordinate to the president, was established in 1996 with a mandate to support democratization and monitor the protection of human rights, and maintained a human rights library. The IDHR was not an independent body, and its ability to obtain redress was limited.

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

Although the law prohibits discrimination based on race, gender, disability, language, ethnic minority status, or social status, discrimination continued to be a problem, as did violence against women.

*Women.*—Rape, including spousal rape, is illegal, with penalties of three to 25 years based on the level of violence of the incident and whether the attacker was a repeat offender. A cultural bias against reporting or acknowledging rape made it difficult to determine the extent of the problem, but some sources indicated rape was not uncommon.

The law prohibits domestic violence, including spousal abuse, but the law was not effectively enforced. Penalties are based on the extent of the injury. Anecdotal reports indicated domestic violence against women was common; most victims of domestic violence kept silent because they were unaware of their rights or afraid of increased violence from husbands and relatives. There were a few court cases and occasional references to domestic violence in the media. One official women's group in Ashgabat, an independent NGO, and several informal groups in other regions assisted victims of domestic violence. A local NGO, Keik Okara, launched a domestic violence hotline with support from the OSCE Center in Ashgabat. Keik Okara also provided free legal consultations and psychological assistance to victims of domestic violence and organized awareness-raising seminars on domestic violence for the general public.

Prostitution is illegal but remained a problem throughout the country. Authorities actively monitored prostitution and attempted to counter it. There is no law specifically prohibiting sexual harassment, and reports suggested sexual harassment existed in the workforce.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and the means to do so free from discrimination, coercion, and violence.

According to the Population Reference Bureau, 97 percent of births were attended by skilled personnel, and 99 percent of women receive at least one postnatal care visit. Modern contraceptive methods were available to 99 percent of the public. Statistics on contraceptive use by single women were unavailable, but 53 percent of married women used some form of modern contraceptives. Due to cultural attitudes, almost one-third of married women opposed the use of family-planning methods.

Women had equal rights under family law and property law, and in the judicial system. In 2007 the Mejlis approved and began implementing a new law on women's rights after consultation with the UNDP and other international partners. The Mejlis Committee on Human Rights and Liberties was responsible for drafting human rights and gender legislation, integrating a new gender program into the education curriculum, and publishing regular bulletins on national and international gender laws. By law women are equal to men in all spheres, including wages, loans, starting businesses, and working in government. Nevertheless, women continued to experience discrimination in practice due to cultural biases. Employers allegedly gave preference to men to avoid productivity losses due to pregnancy or



child-care responsibilities. Women were underrepresented in the upper levels of government-owned economic enterprises and were concentrated in health care, education, and service professions. The government restricted women from working in some dangerous and environmentally unsafe jobs.

The government did not acknowledge, address, or report on discrimination against women.

*Children.*—The government took modest steps to address the welfare of children, including increased cooperation with the UN Children’s Fund (UNICEF) and other international organizations on programs designed to improve children’s health, and reinstatement in 2007 of the 10th year of mandatory schooling.

The government reimposed restrictions on some students wishing to study abroad, following a period since 2007 during which such restrictions had eased. Significant bureaucratic hurdles to foreign study remained in place throughout the period.

In 2007 the government initiated reforms in the higher education system, including extending university education to five years from two years and removing the requirement that university students work for two years before embarking on a degree program.

There were isolated reports of child abuse.

According to a 2006 UNICEF report, 9 percent of marriages involved minors.

*Trafficking in Persons.*—In December 2007 parliament passed a comprehensive law prohibiting all forms of trafficking in persons. There were some reports that persons were trafficked to, from, and within the country.

Statistics on the estimated number of trafficking victims were unavailable. During the year the government continued to use a 2005 migration law to prevent suspected female trafficking victims from going to Turkey, United Arab Emirates, or Iran, which human rights observers reported were the primary trafficking destination countries. Most of the cases involved young women trafficked for sexual exploitation, as well as men trafficked to work as laborers or in factories. Most of the persons were trafficked to Turkey. NGOs noted young women from minority ethnic groups were most vulnerable to being trafficked.

During the year the International Organization for Migration helped 25 trafficked persons repatriate from Turkey. Fines for traffickers ranged from two to eight years’ imprisonment and confiscation of property, depending upon the law under which they were convicted. During the year, for the first time, the government prosecuted two alleged traffickers. The outcome of these cases remains unknown. During the year the Office of the Prosecutor General replaced the Ministry of Internal Affairs as the responsible agency for combating trafficking.

Some social action groups carried out trafficking awareness programs in the provinces. The government did not publicly acknowledge trafficking as a problem and did not monitor the trafficking situation within its borders, nor did it have a strategy to do so. The government did not systematically screen vulnerable population groups to identify trafficking victims. There were unconfirmed reports that some customs or migration officials had been notified of cases in which women were trafficked abroad but made no efforts to prevent the trafficking.

The Department of State’s annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, and other state services; however, in practice disabled persons encountered discrimination and are regularly denied work, education, and access to health care and other state services because of strong cultural biases. The government systematically categorized many persons with physical disabilities as persons with mental disabilities and housed them in facilities for the mentally ill. The government provided subsidies and pensions for persons with disabilities, although the assistance was inadequate to maintain a decent standard of living. Persons with disabilities who received these subsidies were considered “employed” and therefore ineligible to compete for jobs in the government, the country’s largest employer.

Some groups of students with disabilities were unable to obtain education because there were no qualified teachers. Students with disabilities did not fit the unofficial university student profile and were not admitted to universities. Children with disabilities, including those with mental disabilities, were placed in boarding schools through which they were to be provided with educational and future employment opportunities if their condition allowed them to work; in practice neither was provided. Special schools for the hearing and sight impaired existed in the larger cities.

Although the law requires new construction projects to include facilities that allow access by persons with disabilities, compliance was inconsistent and older buildings

remained inaccessible. The Ministry of Social Welfare was responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The law provides for equal rights and freedoms for all citizens. Several minority groups tried to register as NGOs to have legal status to conduct cultural events; however, no minority groups succeeded in registering during the year.

The law designates Turkmen as the official language, although it also provides for the rights of speakers of minority languages. Russian remained prevalent in commerce and everyday life in the capital, even as the government continued its campaign to conduct official business solely in Turkmen. The government required ministry employees to pass tests demonstrating knowledge of professional subjects in Turkmen; employees who failed the exam were dismissed. The government systematically replaced teachers and staff at Turkish schools with ethnic Turkmen. Only in schools did the government dedicate resources to providing Turkmen language instruction for non-Turkmen speakers.

Non-Turkmen speakers noted that some avenues for promotion and job advancement were closed to them, and only a handful of non-Turkmen occupied high-level jobs in government ministries. In some cases applicants for government jobs had to provide ethnicity information going back three generations. The government often targeted non-Turkmen first for dismissal when government layoffs occurred.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual conduct between men is illegal and punishable by up to two years in prison; the law does not mention women. According to a human rights NGO, homosexuality is considered a mental disorder, and gay men were sometimes sent to psychiatric institutions to be “cured.”

There were no recorded cases of violence or other human rights abuses based on sexual orientation and gender identity, and no information was available regarding discrimination against lesbian, gay, bisexual, and transgendered individuals in employment, housing, statelessness, access to education, or health care.

*Other Societal Discrimination.*—There was no reported societal violence or discrimination against persons with HIV/AIDS. The government did not officially recognize any cases of HIV/AIDS in the country.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for citizens to join independent unions, but in practice all existing trade and professional unions were government-controlled. Private citizens are not permitted to form independent unions.

The government permitted the existence of only the umbrella organization Center for Professional Unions (CPU). Led by a presidential appointee, the CPU included professional unions in most fields, including medicine, construction, banking, accounting, economics, entrepreneurship, and lease holding. All unions were government appendages and had no independent voice in their own activities. There is no law regulating strikes or retaliation against strikers, and strikes were rare.

*b. The Right to Organize and Bargain Collectively.*—The law does not protect the right to bargain collectively.

The law does not prohibit antiunion discrimination by employers against union members and organizers. There were no mechanisms for resolving complaints of discrimination, and there were no reports of discrimination.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor. In contrast to previous years, there were no reports of such practices.

A 2005 presidential decree bans child labor, specifying that children are not permitted to participate in the cotton harvest. During the year the government enforced this policy.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, but they were not effectively enforced. The minimum age for employment of children is 16 years; in a few heavy industries, it is 18 years. The law prohibits children between the ages of 16 and 18 from working more than six hours per day. A 15-year-old may work four to six hours per day with parental and trade union permission, although such permission was rarely granted. The MOJ and the Prosecutor General’s Office were responsible for enforcing child labor laws.

*e. Acceptable Conditions of Work.*—The state sector minimum monthly wage of 330 manat (\$116) did not provide a decent standard of living for a worker and family.

The standard legal workweek is 40 hours with weekends off. Most public sector employees also worked at least one-half day on Saturdays. The law states overtime or holiday pay should be double the regular payment. Maximum overtime in a year is 120 hours and cannot exceed four hours in two consecutive days; however, this law was not enforced.

The government did not set comprehensive standards for occupational health and safety. Industrial workers in older factories often labored in unsafe environments and were not provided proper protective equipment. Some agricultural workers were subjected to environmental health hazards related to the application of defoliants in preparing cotton fields for mechanical harvesting. Workers did not always have the right to remove themselves from work situations that endangered their health or safety without jeopardy to their continued employment.

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## UZBEKISTAN

Uzbekistan is an authoritarian state with a population of approximately 27.6 million. The constitution provides for a presidential system with separation of powers among the executive, legislative, and judicial branches. In practice President Islam Karimov and the centralized executive branch dominated political life and exercised nearly complete control over the other branches. Of the 150 members of the lower house of parliament, 135 are elected, and 84 of the 100 senators are chosen in limited elections open only to elected members of local councils. The president appoints the remainder. In December 2007, the country elected President Karimov to a third term in office; however, according to the limited observer mission from the Organization for Security and Cooperation in Europe (OSCE), the government deprived voters of a genuine choice. Parliamentary elections took place on December 27. While noticeable procedural improvements were observed, the elections were not considered free and fair due to government restrictions on eligible candidates and government control of media and campaign financing. Civilian authorities generally maintained effective control of the security forces.

The government continued to commit serious abuses and authorities restricted political and civil liberties. Human rights problems included citizens' inability to change their government; tightly controlled electoral processes with limited opportunities for choice; instances of torture and mistreatment of detainees by security forces; incommunicado and prolonged detention; arbitrary arrest and detention; denial of due process and fair trial; poor prison conditions; restrictions on freedom of speech, press, assembly, and association; governmental control of civil society activity; restrictions on religious freedom, including harassment and imprisonment of religious minority group members; restrictions on freedom of movement for some citizens; violence against women; and government-compelled forced labor in cotton harvesting. Human rights activists and journalists who criticized the government were subject to physical attack, harassment, arbitrary arrest, politically motivated prosecution, and forced psychiatric treatment.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports that the government or its agents committed politically motivated killings.

Family members reported several deaths in custody of prisoners who were serving sentences on charges related to religious extremism. In each such case, family members reported that the body of the prisoner showed signs of beating or other abuse, but authorities pressured them to bury the body before a medical professional could examine it. Reported deaths that fit this pattern during the year included Abdulatif Ayupov (he also suffered from tuberculosis), Ismat Hudoyberdiyev, Negmat Zufarov, and Golib Mullajonov. All had been convicted of crimes related to religious extremism.

On January 22, a credible report cited the deaths in custody from unknown illness of Muhammad Artykov, allegedly one of 23 businessmen involved in the trial that led to the 2005 Andijon events, and alleged Andijon participant Abdurahmon Kuchkarov, although family members reported Kuchkarov was healthy when they saw him a few months before his death. Khoshimjon Kadirov, also arrested after the Andijon events, was reportedly beaten to death in November 2008, but his death was not reported until this year.

On April 30, Nozimjon Mamadaliyev, a Kyrgyz citizen living in Ferghana, died in custody. Although the official forensic report stated that he died of natural causes,

relatives took photographs of the body that appeared to show signs of severe beating.

Nurillo Maqsudov, the leader of a group in exile that calls attention to the 2005 Andijon massacre, reported in September that four of his relatives died in jail in 2008; he claimed their bodies showed clear signs of torture.

There were no updates in the cases of Odil Azizov, Fitrat Salkhiddinov, Takhir Nurmukhammedov, and two other unnamed prisoners. The courts convicted all of them on charges related to religious extremism, and they reportedly died after being tortured in prison in May 2008 and in 2007.

The government has not agreed to authorize an independent international investigation of the alleged killing of numerous unarmed civilians and others during the violent disturbances in Andijon in 2005. The government claimed, based on its own 2005 investigation, that armed individuals initiated violence by firing on government forces. The estimated number of dead varied between the government's total of 187 and eyewitnesses' reports of several hundred.

*b. Disappearance.*—There were no reports of politically motivated disappearances. There continued to be numerous unconfirmed reports of disappearances dating from 2005 of persons who were present at the violent disturbances in Andijon. The welfare and whereabouts of several of the refugees who were forcibly returned to the country during the year remained unknown.

On July 30, unknown Uzbek speakers abducted a citizen refugee and his young son in Kyrgyzstan and reportedly returned them to the country. They interrogated the man for several days, releasing him after he promised to help his abductors find his brother, a human rights activist who may have escaped from prison.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit such practices, law enforcement and security officers routinely beat and otherwise mistreated detainees to obtain confessions or incriminating information. Torture and abuse were common in prisons, pretrial facilities, and local police and security service precincts. Prisoners were subjected to extreme temperatures. Observers reported several cases of medical abuse, and one known person remained in forced psychiatric treatment.

In June Human Rights Watch (HRW) concluded that the government had not taken actions in response to a 2007 report from the UN Committee Against Torture that torture and abuse were systematic throughout the investigative process and had not improved since a 2003 UN special rapporteur on torture report drew the same conclusion. The 2007 UN report stated that despite an amendment to the criminal code addressing elements of the definition of torture, punishment for violations was rare and did not reflect the severity of the crimes. The government responded to these accusations by claiming that the access they had provided to the UN special rapporteur had made it harder to address the issue of abuse, and consequently, future visits by the special rapporteur would be denied.

In November a local human rights organization reported that a former security guard at the British embassy claimed he was beaten into confessing to espionage charges. The former guard also claimed he was tortured with severe cold, fire, electricity, and starvation and was kept in a remand center for nine months before being transferred to a prison facility, during which time his family did not know his location.

In December two sisters serving prison sentences alleged that officers raped and mistreated them in prison. One of the sisters subsequently gave birth to a child in prison. On December 25, the Tashkent City Criminal Court initiated a criminal case against the accused officers.

Authorities convicted and punished 60 Ministry of Internal Affairs officials for wrongdoing.

In January a court upheld the sentencing of four police officers to eight to 17 years' imprisonment for beating to death Angren resident Muzaffar Tuychiyev.

Authorities reportedly gave harsher than normal treatment to individuals suspected of extreme Islamist political sympathies, notably pretrial detainees who were alleged members of banned extremist political organizations Hizb ut-Tahrir (HT) or Nur. Local human rights workers reported that authorities often paid or otherwise induced common criminals to beat suspected extremists and others who opposed the government. Two human rights defenders who were arrested reported beatings in pretrial detention facilities.

There were reports of politically motivated medical abuse. Victims could request through legal counsel that their cases be reviewed by an expert medical board. In practice, however, such bodies generally supported the decisions of law enforcement authorities.

Family members of several inmates, who are considered political prisoners, complained throughout the year of the declining health of the prisoners and asserted that the prisoners' requests for medical evaluation and treatment went unheeded. Among these prisoners were Alisher Karamatov, Yusuf Juma, Solijon Abdurahmanov, and Akzam Turgunov.

There was no update on the case of Jamshid Karimov, a journalist, human rights activist, and nephew of President Karimov, who has remained under forcible detention at Samarkand Psychiatric Hospital since 2006.

*Prison and Detention Center Conditions.*—Prison conditions remained poor and in some cases life threatening. There continued to be reports of severe abuse, overcrowding, and shortages of food and medicine. Tuberculosis and hepatitis were endemic in the prisons, making even short periods of incarceration potentially life-threatening. Family members frequently reported that officials stole food and medicine that were intended for prisoners.

There were reports that authorities did not release prisoners, especially those convicted of religious extremism, at the end of their terms. Instead, prison authorities contrived to extend inmates' terms by accusing them of additional crimes or claiming the prisoners represented a continuing danger to society. These accusations were not subject to judicial review.

According to prison officials, the government held approximately 42,000 inmates at 58 detention facilities. Men, women, and juvenile offenders were held in separate facilities.

On April 10, the parliament amended national legislation to allow the human rights ombudsman unfettered access to prisons to monitor conditions. According to this law, authorities at pretrial detention facilities, where many abuses reportedly occurred, are required upon a detainee's request to arrange a meeting between the detainee and a representative from the Human Rights Ombudsman's Office. The law also provides that correspondence between prisoners and the Ombudsman's Office is confidential. In its 2008 report, released in June, the ombudsman reported on 29 prisoner complaints during the year, an increase from four complaints it undertook to resolve in 2007.

In October the International Committee of the Red Cross (ICRC) resumed its visits to detention facilities under the responsibility of the GUIN (penitentiary system under the authority of the Ministry of Interior). This program follows the six-month trial program that the ICRC completed in September 2008. The ICRC reported that unlike the 2008 six-month pilot program, this program was of unlimited duration. There were some reports that high-profile prisoners were transported to alternate facilities just prior to ICRC visits and were returned after the visits were completed.

Several knowledgeable sources reported that authorities had made some progress in the past three years in improving prison conditions, notably in combating the spread of tuberculosis.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, these practices continued.

*Role of the Police and Security Apparatus.*—The Ministry of Interior (MOI) controls the police, who are responsible for law enforcement and maintenance of order. The National Security Service (NSS), headed by a chairman who answers directly to the president, deals with a broad range of national security and intelligence issues, including corruption, organized crime, and narcotics. Corruption among law enforcement personnel remained a problem. Police routinely and arbitrarily detained citizens to extort bribes. Impunity was a problem, and the government rarely punished officials responsible for abuses. The MOI's main investigations directorate has procedures to investigate abuse internally and to discipline officers accused of rights violations, and it reported that 60 officers had been disciplined. A human rights department formed within the Ministry of Interior has taken actions in some police brutality cases. The Human Rights Ombudsman's Office, affiliated with the parliament, also has the power to investigate such cases.

The MOI's main investigations directorate incorporated human rights training into officers' career development. On November 5, the ministry reported it has provided human rights training to more than 2,000 officers during the year. The OSCE provided training in human rights practices, focusing on basic international human rights documents, to 175 Ministry of Interior officers. The ministry also opened 250 libraries, located in police stations in every district, with human rights literature in both Russian and Uzbek that various international organizations provided. Officers and the public can borrow materials from the library. The ministry has also started an awards program to acknowledge officers who submit their ideas on best practices or articles on human rights issues.

*Arrest Procedures and Treatment While in Detention.*—Under the law, any decision to arrest accused individuals or suspects must be reviewed by a judge, and defendants have the right to legal counsel from the time of arrest, although that right is not always strictly observed. The judge conducting the arrest hearing is not allowed to sit on the panel of judges during the individual's trial, and detainees have the right to request a hearing with a judge to determine whether they should remain incarcerated or be released. Within 24 hours of taking a suspect into custody, the arresting authority must notify a relative or close friend of the detention and question the detainee. Suspects have the right to remain silent. Detention without formal charges is limited to 72 hours, although a prosecutor may extend it for an additional seven days, at which time the person must either be charged or released. In practice judges granted arrest warrants in nearly all cases, and authorities continued to hold suspects after the allowable period through various means. There were complaints that authorities tortured suspects before notifying either family members or attorneys of arrests. The 72-hour period begins only when a suspect is brought to the police station.

Once charges are filed, a suspect may be held in pretrial detention for as long as three months during an investigation. The law permits extension of that period at the discretion of the appropriate court upon a motion by the investigating authority. A prosecutor may release a prisoner on bond pending trial, although in practice authorities frequently ignored these legal protections. Those arrested and charged with a crime may be released without bail until trial on the condition that they provide assurance that they will appear at trial and register each day at a local police station. State-appointed attorneys are available for those who do not hire private counsel.

On March 9, the cabinet adopted a decree requiring that all defense attorneys pass a comprehensive relicensing examination. Among those who did not pass were several experienced and knowledgeable defense lawyers, including noted defense attorney Ruhiddin Komilov, who had represented human rights activists and independent journalists. Rights activists asserted that the change is targeted at defense attorneys who take human rights cases. Several activists facing criminal charges during the year reported difficulties in finding attorneys to represent them. Amendments to the criminal procedure code in 2008 abolished provisions that allowed unlicensed "public defenders" to represent individuals in criminal and civil hearings. Prior to this revision, a human rights defender could serve as a defendant's advocate at trial, particularly in politically sensitive cases or for indigent defenders.

There were reports that police arrested persons on false charges such as extortion or tax evasion as an intimidation tactic to prevent them or their family members from exposing corruption or interfering in local criminal activities.

Authorities continued to arrest persons arbitrarily on charges of extremist sentiments or activities, or association with banned religious groups. Local human rights activists reported that police and security service officers, acting under pressure to break up HT cells, frequently detained and mistreated family members and close associates of suspected HT members. Coerced confessions and testimony in such cases were commonplace.

On July 28, police arrested Oyazimhon Hidirova, a human rights defender active on farmer's issues, on charges of tax evasion and hooliganism, and beat her while she was in custody. On August 31, the government granted her amnesty and released her.

On October 2, officials sentenced Farhad Mukhtarov to five years in prison on what many analysts believe were politically motivated charges of fraud and bribery. Mukhtarov was an active member of the Human Rights Alliance. On December 3, the Tashkent city criminal court reduced Mukhtarov's sentence to four years.

On November 11, police assaulted two human rights activists shortly after they met with a returned political opposition figure. Police detained one of the activists for several hours before releasing him.

On November 24, the Akhunbabaev District Court sentenced Ganikhon Mamatkhanov to five years in prison on what were widely believed to be trumped-up charges of extortion and attempted bribery. Mamatkhanov was a member of the Independent Human Rights Society of Uzbekistan and actively promoted farmers' rights.

Police harassed and sometimes arbitrarily detained members of the opposition Birlik, Free Farmers, Erk, and Birdamlik parties.

During the year pretrial detention typically ranged from one to three months. The number of persons held in pretrial detention was unknown although estimates ranged from approximately 3,400 to 4,000 persons at any one time.

In general prosecutors exercised discretion over most aspects of criminal procedure, including pretrial detention. Detainees had no access to a court to challenge

the length or validity of pretrial detention. Even when authorities filed no charges, police and prosecutors sought to evade restrictions on the duration a person could be held without charges by holding persons as witnesses rather than as suspects.

In March the parliament expanded the number of crimes for which reconciliation procedures may be used. At a conference on legal and judicial reform on June 25, authorities reported that reconciliation procedures were being used more frequently to resolve criminal cases, especially those involving minors, women, and the elderly.

*Amnesty.*—On August 28, the senate issued an amnesty decree for 33,354 persons. Amnesty actions included full exemption from further incarceration, transfer to a prison with lighter conditions, or stopping a criminal case at the pretrial or trial stage.

On August 10, operating under a 2008 decree, the government amnestied and released Sattor Irzayev, a member of the Human Rights Society of Uzbekistan who was convicted of libel and extortion in 2005 following the Andijon events.

On November 7, the government amnestied and released well-known businessman and political opposition figure Sanjar Umarov. Umarov served four years in prison following his arrest in October 2005 for allegedly illegal financial dealings.

Local prison authorities have considerable discretion in determining who qualifies for release, as they determine whether a prisoner is “following the way of correction” or “systematically violating” the terms of incarceration. “Violation of internal prison rules” is often cited as a reason for denying amnesty and for extending sentences. Political and religious prisoners often were often found ineligible for amnesty based on these provisions. For example, Jehovah’s Witnesses Olim Turayev, Abdubannov Akmedov, and Farrukh Zaripov, convicted in 2008 for activities related to religion, applied for amnesty. Soon thereafter they were found guilty of violating internal prison regulations. According to the terms of the amnesty, all three became ineligible for amnesty. Norboy Kholjigitov, who was widely considered a political prisoner, applied for and was denied amnesty on the basis of alleged administrative violations.

*e. Denial of Fair Public Trial.*—Although the constitution provides for an independent judiciary, the judicial branch took its direction from the executive branch, particularly the general prosecutor’s office, and exercised little independence in practice.

Under the law, the president appoints all judges for five-year terms. Removal of supreme court judges must be confirmed by parliament, which in practice complies with the president’s wishes.

The Karakalpakstan Supreme Court has jurisdiction over the Karakalpakstan Republic. Decisions of district and provincial courts may be appealed to the next level within 10 days of a ruling. In addition, a constitutional court reviews laws, decrees, and judicial decisions to ensure compliance with the constitution. Military courts handle all civil and criminal matters that occur within the military. The Supreme Court is a court of general jurisdiction that handles selected cases of national significance.

*Trial Procedures.*—The criminal code specifies a presumption of innocence. There are no jury trials. Most trials are officially open to the public, although access was sometimes restricted in practice. Trials may be closed in exceptional cases, such as those involving state secrets, or to protect victims and witnesses. Courts often demanded that international observers obtain written permission from the court chairman or from the supreme court. Permission was difficult and time consuming to obtain, but international observers, including foreign diplomats, were granted access to some hearings.

Authorities generally announced trials, including those of alleged religious extremists, only at the court in which the trial was to take place and only one or two days before the trial began.

Generally, a panel of one professional judge and two lay assessors, selected either by committees of worker collectives or neighborhood committees, presided over trials. The lay judges rarely spoke, and the professional judge usually deferred to the recommendations of the prosecutor on legal and other matters.

Defendants have the right to attend court proceedings, confront witnesses, and present evidence. These rights generally were observed, including in high-profile human rights and political cases. In the vast majority of criminal cases prosecutors brought to court, however, the verdict was guilty. Defendants have the right to hire an attorney, and the government provides legal counsel without charge when necessary. State-appointed defense attorneys routinely acted in the interest of the government rather than of their clients. Judges in some cases denied defendants the right to an attorney of choice. There were several reports that investigators pressured defendants to refuse legal counsel. Defense counsel was not always well quali-

fied and, in some cases, the role of defense counsel was limited to submitting confessions and pleas for mercy.

During the year defendants had improved access to qualified defense counsel due to the establishment in 2008 of a 24-hour on-call system. Several private law firms provided qualified defense counsel at no expense, and some were financed through international donors.

Government prosecutors order arrests, direct investigations, prepare criminal cases, and recommend sentences. Although the criminal code specifies a presumption of innocence, in practice the prosecutor's recommendations generally prevailed. If a judge's sentence does not correspond with the prosecutor's recommendation, the prosecutor may appeal the sentence to a higher court. Verdicts often are based solely on confessions and witness testimony, which are extracted through torture, threats to family members, or other means of coercion. Legal protections against double jeopardy are not applied in practice.

The law provides a right of appeal to defendants. In political cases appeals did not result in reversals of convictions, but in other cases appeals resulted in reduced or suspended sentences.

Defense attorneys had limited access in some cases to government-held evidence relevant to their clients' cases. In most cases, prosecution was based solely upon defendants' confessions or incriminating testimony from state witnesses, particularly in cases involving suspected HT members. Lawyers may, and occasionally did, call on judges to reject confessions and to investigate claims of torture. Judges often did not respond to such claims or dismissed them as groundless.

*Political Prisoners and Detainees.*—The government denied that there were any political prisoners, and it was impossible to determine the actual number of prisoners or detainees held on political grounds. Observers estimated that 13 to 25 individuals were political prisoners. While a few political prisoners were released during the year, other individuals were imprisoned on what appeared to be politically motivated charges for crimes such as extortion and hooliganism. Starting in October the government allowed the ICRC to visit prisons, but family members of political prisoners reported that in the past monitors were not given access to political prisoners or detainees.

Family members of Yusuf Juma, a poet sentenced in April 2008 to five years in prison for allegedly assaulting a police officer during a protest, reported repeatedly that his health was deteriorating. Family members also reported that guards continued to torture Juma and that prison administrators often delayed or refused their attempts to visit him.

*Civil and Judicial Procedures and Remedies.*—Although the constitution provides for it, the judiciary is not independent or impartial in civil matters. Citizens may file suit in civil courts, if appropriate, on cases of alleged human rights violations. There were reported cases in which courts decided in favor of plaintiffs. However, there were also reports that bribes to judges influenced decisions in civil court cases.

Civil courts operate on the city or district level, as well as the interdistrict and provincial levels. There are also supreme civil courts with jurisdiction over the Karakalpakstan Republic.

Economic courts with jurisdiction over the individual provinces, the city of Tashkent, and the Karakalpakstan Republic handle commercial disputes between legal entities. Decisions of these courts may be appealed to the supreme economic court.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions ((per p15 instructions)); however, authorities did not respect these prohibitions in practice. The law requires a search warrant for electronic surveillance, but there is no provision for a judicial review of such warrants.

There were reports of police and other security forces entering homes of human rights activists and religious figures without a warrant. Members of Protestant churches who held worship services in private homes reported that on numerous occasions armed security officers raided services and detained church members on suspicion of illegal religious activity.

Citizens generally assumed that security agencies routinely monitored telephone calls and employed surveillance and wiretaps of persons involved in opposition political activities.

The government continued to use an estimated 12,000 neighborhood committees ("mahallas") as a source of information on potential extremists. Committees served varied social support functions, but they also functioned as a link among local society, government, and law enforcement. Mahalla committees in rural areas tended to be more influential than those in cities.



There were credible reports that police, employers, and neighborhood committees harassed family members of human rights activists.

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and the press, but the government generally did not respect these rights in practice, and freedom of expression was severely limited.

The law limits criticism of the president, and public insult to the president is a crime punishable by as long as five years in prison. The law specifically prohibits articles that incite religious confrontation and ethnic discord or that advocate subverting or overthrowing the constitutional order.

The law holds all foreign and domestic media organizations accountable for the “objectivity” of their reporting, bans foreign journalists from working in the country without official accreditation, and requires that foreign media outlets be subject to mass media laws. The promotion of religious extremism, separatism, and fundamentalism, as well as the instigation of ethnic and religious hatred, are all prohibited. It bars legal entities with more than 30 percent foreign ownership from establishing media outlets in the country.

During the year police reportedly arrested some individuals for possessing literature of the banned religious extremist, anti-Semitic, and anti-Western group HT. Police also charged persons for possessing writings of the moderate Nur group.

The Uzbekistan National News Agency (UzA) cooperated closely with presidential staff to prepare and distribute all officially sanctioned news and information. In September UzA reported that more than 1,100 newspapers, magazines, news agencies, electronic media outlets, and Web sites were registered with the Uzbek Agency for Press and Information, which is responsible for monitoring all media. The cabinet of ministers owns and controls three of the country’s most influential national daily newspapers, *Pravda Vostoka* (Russian language), *Halq So’zi* (Uzbek language), and *Narodnoe Slovo* (Russian language). The government, or government-controlled political parties or social movements, and the Tashkent municipal government and regional “hokimiyats” (administrations) own or control several other daily and weekly publications. Articles in state-controlled newspapers reflected the government’s viewpoint. The main government newspaper published selected international wire stories.

The government also published news stories on official Internet sites including UzA.uz, operated by the National News Agency of Uzbekistan, and *Jahonnews.uz*, operated by the ministry of foreign affairs (MFA). A few Web sites, most notably *Press-uz.info*, *Gorizont.uz*, and *Region.uz*, purported to be independent, yet their reporting reflected the government’s viewpoint.

The government allowed publication of a few private newspapers with limited circulation containing advertising, horoscopes, and similar features and some substantive local news, including infrequent stories critical of government socioeconomic policies. Three private national Russian-language newspapers—*Novosti Uzbekistana*, *Zerkalo XXI Veka*, and *Biznes Vestnik Vostoka*—carried news and editorials exclusively favorable to the central government, as did two Uzbek-language newspapers, *Hurriyat* (owned by the Journalists’ Association) and *Mohiyat* (owned by *Turkiston-Press*, a nongovernmental information agency loyal to the state). Russian Federation newspapers and a variety of Russian Federation tabloids and lifestyle publications were available, and a modest selection of other foreign periodicals was available in Tashkent.

The four state-run channels dominated television broadcasting. Cable and satellite television channels were also widely watched in Tashkent. Numerous privately owned regional television stations and privately owned radio stations were influential among local audiences. The government tightly controlled broadcast and print media. Journalists and senior editorial staff in state media organizations reported that there were officials whose responsibilities included censorship. Government officials allegedly provided verbal directives to journalists not to cover certain events sponsored by foreign embassies. There were reports, however, that regional television outlets broadcast some moderately critical stories on local issues.

The government continued to refuse Radio Free Europe/Radio Liberty, Voice of America, and BBC World Service permission to broadcast from within the country. It also refused to accredit foreign journalists and local correspondents for those or other Western media, including Reuters and the Associated Press.

Harassment against journalists continued during the year. Police and security services subjected print and broadcast journalists to arrest, harassment, intimidation, and violence, as well as to bureaucratic restrictions on their activity.

In June authorities accused eight journalists from *Yetti Iglim* newspaper and *Irmoq* magazine (private, Uzbek language, scientific publications) of membership in

the banned Nur religious movement. A court convicted all of the accused, with their sentences ranging from six and one-half years to 12 years in prison. The journalists, all of whom were graduates of Turkish schools, denied the charges.

On July 30, a court convicted independent journalist Dilmurod Sayid on charges of extortion and bribery and sentenced him to 12.5 years' imprisonment. Sayid's arrest came soon after he published articles regarding corruption of local government officials. Sayid's appeal remained under consideration. A foreign diplomat attempted to attend the initial appeal hearing but was denied entrance.

Independent journalist Salijon Abdurahmanov from Nukus served the first year of his 10-year sentence for what were widely considered politically motivated drug charges. His family reported in July that his health was deteriorating in prison.

On October 28, Reporters without Borders reported that law enforcement officials detained two Tashkent-based journalists crossing the border to Kyrgyzstan. Police questioned the journalists extensively and confiscated audio tapes of their interviews, but allowed them to return to Tashkent following the incident.

During the year there were reports that the government harassed journalists from state-run and independent media outlets in retaliation for their contacts with foreign diplomats. However, more journalists were able to participate during the year at foreign embassy events in Tashkent than in previous years.

Training of international media groups fell under higher scrutiny during the year. In May Charter IV, a Ukrainian nonprofit organization, planned to conduct training sessions for journalists in Tashkent. The government expressed its opposition shortly prior to their planned start, and the organizers cancelled the sessions.

It was unclear if during the year the National Association of Electronic Mass Media continued to use its directors' close relations with the government to persuade local television stations to join the association and occasionally broadcast prescribed government-produced programming, as it reportedly had done in the past.

Government security services and other offices regularly gave publishers articles and letters to publish under fictitious bylines, as well as explicit instructions about the types of stories permitted for publication. Often there was little distinction between the editorial content of a government or privately owned newspaper. There was little independent investigative reporting. The number of critical newspaper articles remained low and their scope narrow. Widely read tabloids, however, were able to publish some articles that lightly criticized government policies and discussed issues viewed as somewhat controversial, such as trafficking in persons.

The criminal and administrative codes impose significant fines for libel and defamation. The government used charges of libel, slander, and defamation to punish journalists, human rights activists, and others who criticized the president or the government.

On December 16, the Uzbek Communication and Information Agency initiated a defamation case against well-known photographer Umida Ahmedova for her work that was included in the documentaries "The Burden of Virginity" and "Customs of Men and Women." The documentaries looked at poverty and gender equality in the country, and the charges alleged that the photographs damaged the country's image.

*Internet Freedom.*—The government allowed access to the Internet and reported in September that the number of Internet users in the country was approximately 2.6 million. However, Internet service providers, at the government's request, routinely blocked access to Web sites or certain pages of Web sites the government considered objectionable. The government blocked several domestic and international news Web sites and those operated by opposition political parties.

The media law defines Web sites as media outlets, requiring them, as all local and foreign media to register with the authorities and to provide the names of their founder, chief editor, and staff members. Web sites are not required to submit hard copies of publications, as traditional media outlets are.

A 2007 law requires Internet providers to block access to blogs that discuss any aspect of the country, and according to local journalists, this injunction was enforced. Several online forums remained accessible, however. These forums allowed registered users to post comments and read discussions on a range of social issues facing the country.

A decree requires that all Web sites seeking a "uz" domain register with the state Agency for Press and Information. The decree generally affected only government-owned or government-controlled Web sites. Opposition Web sites and those operated by international NGOs or media outlets tended to have domain names registered outside the country.

*Academic Freedom and Cultural Events.*—The government continued to limit academic freedom and cultural events. Authorities occasionally required department head approval for university lectures or lecture notes, and university professors gen-

erally practiced self-censorship. Numerous university students reported that universities taught mandatory courses on books and speeches of the president and that missing any of these seminars constituted grounds for expulsion.

Although a decree prohibited cooperation between higher educational institutions and foreign entities without explicit prior approval by the government, foreign institutions often were able to obtain such approval by working with the MFA, especially for foreign language projects. Some school and university administrations continued to pressure teachers and students not to participate in conferences sponsored by diplomatic missions.

On June 27, NSS officials halted the Kyrgyzstan-based American University of Central Asia (AUCA) attempt to conduct an entrance examination in the country by confiscating materials, interrogating students and administrators, and canceling the exam. The university representatives returned to Bishkek without their test materials; the confiscated materials remained with the government. The government stated that the exams were stopped because the AUCA did not have permission from the MFA.

On July 16, government officials shut down a foreign embassy outreach event explaining how to apply to foreign universities.

There were a few instances of individuals choosing not to participate in international exchange programs after being threatened with the loss of their jobs, but there were no reports of individuals actually losing their jobs after participating in such programs. During the year the government expressed concern over a foreign embassy-sponsored high school exchange program, which the embassy suspended. Authorities also cancelled the planned professional development conference for former international educational and professional exchange program participants.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, but in practice the government often restricted this right. Authorities have the right to suspend or prohibit rallies, meetings, and demonstrations for security reasons. The government did not routinely grant the required permits for demonstrations. Citizens are subject to large fines for facilitating unsanctioned rallies, meetings, or demonstrations by providing space or other facilities or materials, as well as for violating procedures concerning the organizing of meetings, rallies, and demonstrations.

Authorities used arrests to prevent or stop peaceful protests. For example, on May 13, Tashkent police dispersed human rights activists who had gathered to commemorate the victims of the 2005 Andijon events by laying a wreath at a popular memorial. About 20 activists tried to take part, but only one activist managed to reach the monument, where he was arrested. On June 10, police arrested five human rights activists when they tried to submit a statement detailing government human rights abuses to the Embassy of the Czech Republic, which at the time held the chairmanship of the European Union.

On October 5 and 15, small groups of human rights activists (five and four, respectively) were detained when they staged demonstrations against the use of child labor in the cotton harvest in the district of Jizzakh.

On November 11, police broke up a small group of persons protesting the alleged torture of a family member in prison.

On November 23, police detained in their homes, brought to police stations, or confiscated the passports of as many as 30 human rights activists who attempted to attend an annual meeting of the opposition party Birdamlik. The meeting, scheduled for the following day, was canceled.

In several other cases, however, human rights activists reported that local residents protested economic conditions, and human rights activists occasionally held small protests, unmolested and apparently without prior permission of the authorities.

*Freedom of Association.*—While the law provides for freedom of association, the government continued to restrict this right in practice. The government sought to control NGO activity and has cited the perceived role that internationally funded NGOs allegedly have in fomenting dissent as well as concerns about unregulated Islamic groups. The law broadly limits the types of groups that may be formed and requires that all organizations be registered formally with the government. The law allows for a six-month grace period for new organizations to operate while awaiting registration, during which time they are classified officially as “initiative groups.” Several NGOs continued to function as initiative groups for periods longer than six months. The government allowed nonpolitical associations and social organizations to register, but complicated rules and a cumbersome government bureaucracy made the process difficult and allowed opportunities for government obstruction. The government compelled most local NGOs to register with a government-controlled NGO

association, the purpose of which was to control all funding and activities. The degree to which NGOs were able to operate varied by region, as some local officials were more tolerant of NGO activities.

The administrative liability code imposes large fines for violations of procedures governing NGO activity, as well as for “involving others” in illegal NGOs. The law does not specify whether “illegal NGOs” are those that were forcibly suspended or closed or those that were simply unregistered. The administrative code also imposes penalties against international NGOs for engaging in political activities, activities inconsistent with their charters, or activities the government did not approve in advance. The government enforced the 2004 banking decree that, although ostensibly designed to combat money laundering, also complicated efforts by registered and unregistered NGOs to receive outside funding.

The government claimed that there were more than 5,000 registered NGOs. Credible sources estimated approximately 300 independent NGOs remained following the closure of more than 300 local NGOs and 17 or more foreign-funded NGOs in the post-Andijon period. The government reported that 290 NGOs received financial support from the government. The government also reported that there were 15 professional unions and 100 sports associations.

Although a 2008 tax code had rescinded tax exemptions for NGOs, NGOs and legal experts successfully lobbied during the year to retain a tax structure favorable to NGOs.

In December 2008 the government officially registered the French NGO ACTED, which focuses on public health issues. This was the first instance when an NGO that was forced to leave the country in 2007 regained its legal status.

On April 30, the Finance Ministry issued an order requiring all humanitarian aid and technical assistance recipients to submit to the ministry information on bank transactions.

The law criminalizes membership in organizations the government deems extremist, including Tablighi Jamaat and other groups branded with the general term “Wahhabi.” The law also banned the extremist Islamist political organization HT for promoting hate and praising acts of terrorism. Although HT maintained that it was committed to nonviolence, the party’s virulently anti-Semitic and anti-Western literature called for the overthrow of secular governments, including those in Central Asia to be replaced with a worldwide Islamic government.

The government has pressured and prosecuted members of the Islamic group Akromiya (Akromiylar) since 1997. Independent religious experts claimed that Akromiya was an informal association promoting business along Islamic religious principles. The government claimed that it was a branch of HT and that it attempted, together with the Islamic Movement of Uzbekistan, to overthrow the government through armed rebellion in the 2005 Andijon demonstrations.

*c. Freedom of Religion.*—The constitution provides for freedom of religion and separation of church and state. In practice, however, the government and laws restricted religious activity, especially for unregistered groups.

A significant majority of the population are Muslims. The government promoted a single version of Islam through the control of the Muftiate, which in turn controlled the Islamic hierarchy and the content of imams’ sermons and published Islamic materials. The Religious Affairs Committee, under the cabinet of ministers, oversaw registered religious activity and approved all religious literature. Many sources reported that mosques overflowed for lack of space during Friday prayers. The government allowed a small number of unofficial, independent mosques to operate under the watch of government-sanctioned imams.

The law requires all religious groups and congregations to register and provides strict and burdensome registration criteria, including that each group present to the Ministry of Justice (MOJ) a list of at least 100 national citizen members and that a congregation already have a valid legal address. These and numerous other provisions enabled the government to cite technical grounds for denying a group’s registration petition, such as grammatical errors in a group’s charter. These provisions mostly affected small, unregistered congregations, especially those viewed as being engaged in missionary activity, which is illegal. In contrast, registered minority congregations faced fewer restrictions on their activities.

Numerous small Protestant churches remained unregistered, including churches in Tashkent, Chirchiq, Samarkand, Nukus, Gulistan, Andijon, and Gazalkent. Most did not apply because they did not expect local officials to register them or because they had too few members to qualify for registration. Often they were afraid to give the authorities a list of their members, especially ethnic Uzbeks. No Baptist church has registered successfully since 1999. No Protestant churches were registered in Karakalpakstan. Only one Jehovah’s Witnesses congregation was registered. On February 19, authorities denied the seventh application filed by Jehovah’s Wit-

nesses to register a congregation in Tashkent legally. New mosques faced difficulties gaining registration as well.

Any religious service conducted by an unregistered religious organization is illegal. Police frequently dispersed meetings of unregistered groups, which were generally held in private homes, occasionally detaining, imposing fines, and beating members of the groups.

Proselytizing is a crime, as is the teaching of religion without state approval. These provisions resulted in several prosecutions. Jehovah's Witnesses faced arbitrary fines, arrest, and imprisonment on charges of proselytizing or illegally teaching religion. Convicted Jehovah's Witnesses were not allowed to read or possess a Bible in prison.

Christian congregations, that included members of traditionally Muslim ethnic groups, often faced official harassment, legal action, or, in some cases, mistreatment. The Baha'i community faced similar mistreatment. There were reports from Protestant Christians that authorities delayed or denied their exit visas. There were other reports that Christians were questioned and searched when leaving the country to take part in a religious event.

On February 25, the Yakkasaray District Court in Tashkent upheld the convictions of six Jehovah's Witnesses following a police raid of an apartment in which they were meeting. Two persons were jailed for 10 days, one for 15 days, and three were fined the equivalent of 1,400,000 soum (\$1,000).

On February 28, the Mirzo Ulugbek District Court in Tashkent sentenced two Jehovah's Witnesses to 15 days in jail following a meeting that was raided by police.

On July 27, a court sentenced Timur Chekparbayev and one other person to 15 days' detention for proselytizing and missionary activity, following the raid of a study meeting at the Baha'i Center in Tashkent. Authorities brought Chekparbayev, a citizen of Kazakhstan living legally in the country, to the Kazakhstan border and deported him immediately following his detention. The same court fined four other participants of the meeting 16,000 soum each (\$10) on similar charges. The National Spiritual Assembly of the Baha'is of Uzbekistan reported that on August 15, police again entered the Baha'i Center in Tashkent and confiscated hundreds of books.

On October 29, a court found Pavel Peichov, chairman of the Evangelical Christian Baptist Union, and his colleagues Yelena Kurbatova and Dmitri Pitirimov guilty of tax evasion and involving children in religious activities for the operation of a Baptist summer camp for children. The court fined each 260 times the monthly wage, an estimated total of 26,243,100 soum (\$17,280), and prohibited them from participating in any administrative or commercial activity for the next three years. On December 4, the Tashkent City Court granted amnesty for the charges resulting in the fine but left intact the restriction on administrative and commercial activities.

In November a Tashkent district court convicted Igor Morozov, the local representative for the Jehovah's Witnesses in the country, of teaching religion illegally and fined him 3,364,500 soum (\$2,200).

Most Muslims arrested on political charges were tried for anticonstitutional activity and participating in "religious extremist, separatist, fundamentalist, or other banned organizations," a charge that encompasses both political and religious extremism. The overwhelming majority of those arrested on this charge were accused of HT or Nur membership, with a marked increase in the number of arrests and convictions of Nur members. The government commonly arrested members of other groups outside of the control of the official religious authorities and labeled many of them Wahhabi or "extremist." The government states that it does not consider repression of persons or groups suspected of extremism to be a matter of religious freedom, but rather of preventing armed resistance to the government. However, convictions of individuals associated with HT and similar organizations have lacked due process and have also involved credible allegations of torture. Most defendants received sentences ranging from three to 14 years; some received sentences of 16 to 20 years.

On July 6, a Samarkand court sentenced 11 members of Nur between the ages of 19 and 31 to between seven and 11 years in prison.

On November 6, authorities in Karshi arrested one woman and several other persons for allegedly holding an unauthorized religious meeting. The woman reportedly taught a religious course for women at a local mosque, but the charges arose from a meeting she held in her home. Authorities confiscated films and literature from her home when they arrested her. At year's end no charges had been filed, but she remained in custody.

Authorities severely mistreated persons arrested on suspicion of extremism.

Prison authorities reportedly denied many prisoners suspected of Islamic extremism the right to practice their religion freely and, in some circumstances, did not allow them to possess a Koran. Authorities reportedly punished with solitary con-

finement and beatings inmates who attempted to carry out religious practices despite prison rules, or who protested the rules.

The law limits religious instruction to officially sanctioned religious schools and state-approved instructors and does not permit private instruction or the teaching of religion to minors without parental consent.

The government controlled the publication, importation, and distribution of religious literature. The government required a statement in every domestic publication indicating the source of its publication authority. Possession of literature deemed extremist could lead to arrest and prosecution. Illegal production, storage, importation, or distribution of religious materials could result in fines of 20 to 100 times the minimum monthly wage for individuals and 50 to 150 times the minimum wage for groups, as well as confiscation and destruction of the literature.

In February, March, and September, documentaries on state-controlled television described Nur as “an extremist sect” that aimed to establish a pan-Turkic state. They also described several convictions for Nur membership with sentences between six and one-half and eight years in prison. In October a documentary critical of Jehovah’s Witnesses and of a Baptist congregation aired on state-run television.

There were numerous reports of enforcement of a ban on wearing hijabs (headscarves) in public schools with accusations that some officials forcibly removed them. There were also several reports that girls wearing the headscarves in school were ridiculed by their peers and sometimes by teachers. There were no reports of arrests or harassment of Muslim believers based on outward expressions of their religious belief such as beards, veils, or mosque attendance. The law allows only those serving in religious organizations to wear “cult robes” (religious clothing). In practice this provision did not appear to be enforced.

*Societal Abuses and Discrimination.*—Society is generally tolerant of religious diversity but not of proselytizing. In particular, Muslim, Russian Orthodox, Roman Catholic, and Jewish leaders reported high levels of acceptance in society. Other minority religious groups, especially churches with ethnic Uzbek converts, encountered difficulties stemming from social prejudices. There were persistent reports of discrimination against and harassment of ethnic Uzbek Muslims who converted to Christianity. There were some reports of local mosques banning women and persons below 18 from participation in prayer, allegedly based on the directive of local religious leaders.

There were no reports of anti-Semitic acts or patterns of discrimination against Jews. There were eight registered Jewish congregations, and observers estimated the Jewish population to be approximately 10,000 persons, concentrated mostly in Tashkent, Samarkand, and Bukhara. Their numbers were declining due to emigration, largely for economic reasons. There were no reports during the year of HT members distributing anti-Semitic materials.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for free movement within the country and across its borders, although the government limited this right in practice. On November 23, the government closed the border with Kazakhstan due to concerns over the spread of the H1N1 influenza virus. Citizens could cross the border to Kazakhstan if they carried an invitation from someone in Kazakhstan or for reasons deemed serious, such as for health care or to attend a funeral. Borders are sometimes closed around national holidays due to security concerns. Permission from local authorities is required to move to a new city. The government rarely granted permission to move to Tashkent, and local observers reported that persons had to pay bribes of up approximately 100,000 soum (\$67) to obtain the registration documents required to move.

The government required citizens to obtain exit visas for foreign travel or emigration and, although it generally granted the visas, local officials often demanded bribes. There were reports during the year that the government delayed exit visas for human rights activists to prevent their travel abroad; they also limited their freedom of movement within the country. A government registration system required citizens to obtain a special stamp from local authorities in their place of residence before leaving the country. Citizens generally continued to be able to travel to neighboring states, and the stamp requirement was not uniformly enforced. Land travel to Afghanistan remained difficult. Citizens needed permission from the NSS to cross the border.

Foreigners with valid visas generally could move within the country without restriction.

In October Bahodir Choriev, the leader of the Birdamlik opposition party, returned to the country after living for five years in a western country. Authorities closely monitored his activities and, in several instances, persons with whom Choriev met were questioned or beaten by law enforcement officers. On December 11, authorities deported Choriev. At year's end several other opposition political figures and human rights activists remained in voluntary exile.

Emigration and repatriation were restricted since the law does not provide for dual citizenship. In practice returning citizens had to prove to authorities that they did not acquire foreign citizenship while abroad, or otherwise they would face prosecution. In practice citizens often possessed dual citizenship and traveled without impediment.

The government noted that citizens residing outside the country for more than six months can register with the country's consulates, and such registration was voluntary. However, there were reports that failure to register has rendered citizens residing abroad and children born abroad stateless.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened due to their race, religion, nationality, membership in a particular social group, or political opinion. As in the previous year, there were reported cases of the government forcibly removing Afghan refugees from the country. In practice the government did not allow the UNHCR to provide assistance to refugees and asylum seekers.

During the first 10 months of the year, the UN Development Program (UNDP) continued to assist with monitoring and resettlement of approximately 600 refugees, most of them Afghans, who remained in the country. The UNDP also performed some of the UNHCR's humanitarian functions, as it has done since the government forced the UNHCR office to close in 2006. The UNHCR assisted refugees from the country who had fled into Kyrgyzstan following the 2005 unrest in Andijon.

During the year there were reports that harassment of Afghan refugees continued. Since 2007 the MFA has not considered UNHCR mandate certificates as the basis for extended legal residence, and persons carrying such certificates must apply for the appropriate visa or face possible deportation. The government considered the refugees from Afghanistan and Tajikistan economic migrants, and officials sometimes subjected them to harassment and bribery. Most refugees from Tajikistan were ethnic Uzbeks; unlike their counterparts from Afghanistan, those from Tajikistan were able to integrate into and were supported by the local population. Some refugees from Tajikistan were officially stateless or faced the possibility of becoming officially stateless, as many carried only old Soviet passports rather than Tajik or Uzbek passports.

The UNHCR reported that Afghan refugees had no access to the legal labor force and therefore had limited means to earn a livelihood. There have been reports that Afghan refugees frequently decide not to seek police protection or redress through the courts because they fear harassment or retribution from officials.

During the year the government pressured several other countries to forcibly return citizens who were under UNHCR protection abroad.

In January a court in Namangan sentenced Abdumumin Dadakhonov, allegedly the personal driver for a leader of the Islamic Movement of Uzbekistan, to 18 years in prison on charges of religious extremism following his arrest and extradition in 2008 from Ukraine. Rights activists objected to the extradition on the ground that he would be subjected to torture upon his return.

On August 19, the media in Russia reported that a review board of the St. Petersburg city court overturned a decision to extradite Orinboy Ergashev to the country on charges related to religious extremism. The review panel found that extradition would violate the European Convention for the Protection of Human Rights and Fundamental Freedoms, given the possibility that Ergashev would be tortured if returned to his country.

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

The constitution and law provide citizens with the right to change their government peacefully. In practice this was not possible through peaceful and democratic means. The government severely restricted freedom of expression and suppressed political opposition. The government was highly centralized and ruled by President Karimov and the executive branch through sweeping decree powers, primary au-

thority for drafting legislation, and control of government appointments, most of the economy, and the security forces.

*Elections and Political Participation.*—In 2008 President Karimov swore himself in for a third term as president after his 2007 reelection in a process that fell short of international democratic norms. The OSCE's limited election observation mission noted that there were more candidates than in previous elections, but all candidates publicly endorsed the incumbent's policies. There was no competition of political views, administrative hurdles kept other potential candidates off the ballot, and the government tightly controlled the media. The OSCE mission noted procedural problems and irregularities in vote tabulation.

The constitution prohibits a president from seeking a third term in office, an apparent contradiction the government has never publicly addressed. The OSCE declined to monitor the 2000 election in which President Karimov was reelected to a second term, determining that preconditions did not exist for it to be free and fair. A 2002 referendum, which multilateral organizations and foreign embassies also refused to observe, extended presidential terms from five to seven years.

Parliamentary elections were held on December 27. Changes to election law ensured that only members of political parties (all of whom supported the president) were eligible to run for office. For the first time, however, the political parties engaged in debate and criticized each other's proposed policies. Election observers noted that the elections themselves appeared to be conducted with fewer irregularities than in previous years. Multiple voting instances were the most commonly observed problem, attributed to a tradition of "family voting," in which one person casts votes for an entire family.

The total number of registered political parties decreased from five to four in June 2008 after the Milliy Tiklanish ("National Rebirth") party absorbed the Fidokorlar ("Selfless") party. The three remaining registered parties are the People's Democratic Party of Uzbekistan, the Adolat ("Justice") Social-Democratic Party, and the Liberal Democratic Party of Uzbekistan. The government controlled all registered political parties and provided their funding.

The law allows independent political parties, but it also gives the MOJ broad powers to interfere with parties and to withhold financial and legal support to parties that are judged to oppose to the government.

The law makes it extremely difficult for genuinely independent political parties to organize, nominate candidates, and campaign. To register a new party requires 20,000 signatures. The procedures to register a candidate are burdensome. The law allows the MOJ to suspend parties for as long as six months without a court order. The government also exercised control over established parties by controlling their financing and media exposure.

Only registered political parties may nominate candidates. In 2008 the number of deputies in parliament's lower house (the Oliy Majlis) expanded from 120 to 150, with half of the new seats reserved for members of the new "Ecological Movement of Uzbekistan." With this change, 10 percent of the Oliy Majlis members are now appointed rather than elected. All members of the senate are either appointed by the president (16) or chosen in limited elections open only to elected members of local councils (84).

The law prohibits judges, public prosecutors, NSS officials, persons serving in the armed forces, foreign citizens, and stateless persons from joining political parties. The law prohibits parties based on religion or ethnicity; those that oppose the sovereignty, integrity, and security of the country and the constitutional rights and freedoms of citizens; those that promote war or social, national, or religious hostility; and those that seek to overthrow the government.

Several political parties were banned or denied registration following the 2005 Andijon events. Former party leaders remained in exile, and their parties struggled to remain relevant without a strong domestic base.

There were 33 women in the 150-member lower chamber of the parliament and 15 women in the 100-member senate. At year's end there was one woman in the 28-member cabinet. In January 2008 Dilorom Toshmammedova—leader of the progovernment Adolat Social-Democratic party and one of four officially recognized presidential candidates in the December 2007 election—became the first female speaker of the lower house of parliament, the highest government position a woman has ever held.

At the end of the year, there were nine members of ethnic minorities in the lower house of parliament and 15 minorities in the senate.



#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged with impunity in corruption.

In 2008 President Karimov signed a law to ratify the United Nations Convention Against Corruption. The law states that all government agencies must provide citizens with the opportunity to examine documents, decisions, and other materials affecting their freedoms. In practice the government has not implemented these rights, although the Prosecutor General's Office formed a working group to address implementation of its obligations under the convention, and the government cohosted with the UN and OSCE a workshop on implementing these obligations.

The World Bank corruption indicators gave the country particularly low marks for accountability and control of corruption, with both indicators dropping over the last five years. The public generally did not have access to government information, and information normally considered in the public domain was seldom reported.

Corruption was a severe problem in the university, law, and traffic enforcement systems. There were several reports that bribes to judges influenced the outcomes of civil suits. On March 24, authorities accused an NGO, Ezgulik, of defamation after it named officials who allegedly requested a bribe from the organization. There were reports that citizens encountered corruption from neighborhood committees ("mahallahas"), frequently paying a bribe to receive social benefit payments that were distributed through the mahallas.

The government reported that investigative agencies prosecuted 1,138 officials for official crimes. As a result, seven officials were disciplined, 624 were dismissed from the positions, and 189 persons were criminally charged for economic crimes including corruption. In May a Tashkent district court sentenced Bahtiyor Sirliboyev, former inspector for crime prevention under the MOI, to seven years in prison for receiving bribes.

On March 23, state-controlled television announced that law enforcement arrested a former officer of the criminal investigation unit in a region of Tashkent. The former official allegedly led a ring of corrupt police who extorted money from citizens under fabricated charges.

A state-controlled newspaper reported on October 12 that the Kashkadarya regional criminal court sentenced a judge from the Shahrisabz district to 10 years in prison for receiving a bribe.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups operated in the country, although they were hampered by a fear of official retaliation. The government frequently harassed, arrested, and prosecuted human rights activists.

The government officially acknowledges two domestic human rights NGOs—Ezgulik and the Independent Human Rights Organization of Uzbekistan. Others were unable to register but continued to function at both the national and local levels. Organizations that attempted to register in previous years and remain unregistered included the Human Rights Society of Uzbekistan, Mazlum ("Oppressed"), and Mothers against the Death Penalty and Torture. These organizations did not exist as legal entities, but they continued to function despite difficulty renting offices or conducting financial transactions. They could not open bank accounts, making it virtually impossible to receive funds legally. Unregistered groups were liable to government prosecution.

Government officials occasionally met with domestic human rights defenders, some of whom noted that they were able to resolve cases of human rights abuses through direct engagement with authorities.

Police and security forces continued to harass domestic human rights activists and NGOs during the year. Security forces regularly threatened and intimidated human rights activists to prevent their activities and dissuade them from meeting with foreign diplomats, and occasionally police and other government authorities ordered activists to cease contact with foreigners. Unknown assailants attacked human rights activists. Authorities regularly detained or arrested human rights activists and subjected them to house arrest or false criminal charges. Government officials publicly accused specific activists of conspiring with international journalists to discredit the government.

Since the 2005 Andijon events, the government severely restricted the activities of international human rights NGOs and subjected their employees to frequent harassment and intimidation. Government officials and the government-controlled media frequently accused international NGOs of participating in an international "information war" against the country.

The government continued to restrict the work of international bodies and foreign diplomatic missions and severely criticized their human rights monitoring activities and policies. The government followed a standard policy of auditing all international NGOs annually. Generally following an audit, the MOJ sent each audited NGO a letter outlining the violations discovered during the process, with a 30-day time limit to resolve the violations.

The government required that NGOs coordinate their training sessions or seminars with government authorities. NGO managers believed this amounted to a requirement for prior official permission from the government for all NGO program activities.

Two foreign-based international NGOs that attained registration in 2008 continued operations, presenting several conferences and trainings with high-level officials and international experts.

HRW remained registered, but it has not resumed operations since the government in 2008 refused to accredit HRW's country director and prohibited him from reentering the country.

In July World Vision announced it would cease operations (effective June 2010) due to the difficult operational environment in the country.

Although the OSCE has been able to do only limited work on human rights issues since 2006, the government approved several proposed OSCE projects during the year, including in the "human dimension," the human rights part of the OSCE's work, to which the government had objected in past years.

The human rights ombudsman, affiliated with parliament, had the stated goals of promoting observance and public awareness of fundamental human rights, assisting in shaping legislation to bring it into accordance with international human rights norms, and resolving cases of alleged abuse. The Ombudsman's Office mediates disputes between citizens who contact it and makes recommendations to modify or uphold decisions of government agencies, but its recommendations are not binding. The ombudsman has offices in all provinces of the country, as well as in the Karakalpakstan Republic and Tashkent. The ombudsman released a report in June for 2008, stating that it received nearly 10,000 petitions and took action in 5,676 cases. The majority of these dealt with the rights to life, freedom, privacy, human treatment, and respect for dignity, as well as the right to a fair trial.

Throughout the year the Ombudsman's Office hosted meetings and conferences with law enforcement, judicial representatives, and limited international NGO participation to discuss its mediation work and means of facilitating protection of human rights.

The National Human Rights Center is a government agency responsible for educating the population and officials on the principles of human rights and democracy and for ensuring that the government complies with its international obligations to provide human rights information. During the year the center responded to the UN Human Rights Council's report on the country's December 2008 Universal Periodic Review, accepting some criticism but denying many of the allegations or stating that the issues were the country's internal affair. International organizations reported cooperation with the center in raising awareness of recent legal reforms among government officials, including the adoption of an antitrafficking law and International Labor Organization (ILO) antichild labor conventions adopted in 2008.

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

The law prohibits discrimination on the basis of race, gender, disability, language, or social status. The constitution prohibits discrimination on the basis of race, gender, and language, but it does not specifically prohibit discrimination on the basis of disability. Societal discrimination against women and persons with disabilities existed, and child abuse persisted.

*Women.*—The law prohibits rape, including rape of a "close relative," but the criminal code does not specifically prohibit marital rape, and no cases were known to have been tried in court. Cultural norms discouraged women and their families from speaking openly about rape, and instances were almost never reported in the press.

The law does not specifically prohibit domestic violence, which remained common. While the law punishes physical assault, police often discouraged women from making complaints against abusive husbands, and abusers rarely were taken from their homes or jailed. Physical abuse of females was considered a personal affair rather than a criminal act. Such cases were usually handled by family members or elders within the mahallah and rarely came to court. Local authorities emphasized reconciling husband and wife, rather than addressing the abuse.

As in past years, there were reported cases in which women attempted or committed suicide as a result of domestic violence. Information indicates that most

cases went unreported, and there were no reliable statistics on the problem's extent. Observers cited conflict with a husband or mother-in-law, who by tradition exercised complete control over a wife, as the usual reason for suicide. NGOs assisting survivors of suicide attempts reported inconsistent cooperation from officials and neighborhood committees.

The law prohibits prostitution; however, it remained a problem. Police enforced the laws against prostitution unevenly; some police officers harassed and threatened prostitutes with prosecution to extort money.

The law does not explicitly prohibit sexual harassment, but it is illegal for someone to coerce a woman with whom he has a business, financial, or other dependent relationship into a sexual relationship. Social norms and the lack of legal recourse made it difficult to assess the scope of the problem.

Couples and individuals generally may decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. However, there were isolated reports in Khorezm and Andijon of forced sterilization of women who had more than two children.

Contraception generally was available to both men and women. In most districts, maternity clinics were available and staffed by fully trained doctors, who gave a wide range of prenatal and postpartum care. There were some reports that women in rural areas chose in greater numbers than in urban areas to give birth at home, without the presence of skilled medical attendants.

Men and women generally are equally diagnosed and treated for sexually transmitted infections, including HIV.

The law prohibits discrimination based on gender, and the National Women's Committee (NWC) exists to promote the legal rights of women. Women historically have held leadership positions across all sectors, although not with the same prevalence as men, but cultural and religious practices limited their role in society. There were few data to show whether women experienced discrimination in access to employment, credit, or pay equity for substantially similar work.

The NWC is tasked to work with the UNDP on implementation of both the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the 2007 National Action Plan to address recommendations of the CEDAW Committee. The NWC conducts awareness-raising efforts such as a September 23 seminar in Nukus, Karakalpakstan, on protection from discriminative customs, forced and early marriages, and domestic violence. In December the NWC and the MOI jointly conducted training for Tashkent police officers on the protection of women and children, specifically addressing preventing and resolving family conflicts.

*Children.*—Citizenship is derived by birth within the country's territory (*jus soli*) and from one's parents (*jus sanguinis*). The government generally registers all births immediately.

The law provides for children's rights and for free compulsory education for 12 years through basic and secondary school and does so equally for both boys and girls. In practice shortages and budget difficulties meant many families had to pay education expenses. Teachers earned extremely low salaries and expected regular payments from students and their parents for good grades.

The government subsidized health care, including for children, and boys and girls enjoyed equal access. As with education, low wages for doctors and poor funding of the Soviet era health sector led to a widespread system of informal payments for services; in some cases this was a barrier to access for the poor. With some exceptions, those without an officially registered address, such as street children and children of migrant workers, did not have access to government health facilities.

Child abuse generally was considered an internal family matter, and government officials were reluctant to discuss the issue openly with international organizations. Elders on neighborhood committees frequently took an interest at the local level in line with the committees' responsibilities to maintain harmony and order within the community.

The law states that the minimum age for marriage is 17 for women and 18 for men, but a mayor of a district may lower the age by one year in exceptional cases. Child marriage was not prevalent, although in some rural areas girls as young as 15 were married occasionally in religious ceremonies not officially recognized by the state. According to a 2006 report endorsed by UNICEF and the Uzbek State Statistical Committee, 5 percent of women between the ages of 15 and 19 were married. The same report also found that 12.5 percent of women between the ages of 20 to 49 were married before they became 18.

A statutory rape law states that a child younger than 14 cannot legally consent to having sexual relations with an adult, and the punishment for statutory rape is

15 to 20 years of imprisonment. The production, demonstration, and distribution of child pornography (of persons younger than 21) is punishable by a fine of 100 to 200 times the minimum wage or up to three years' imprisonment.

There were reports that girls were trafficked from the country for the purpose of sexual exploitation and that girls were engaged in forced prostitution. There also were reports that boys were trafficked to Kazakhstan and Russia.

Men are required to serve one year of military duty at the age of 18. A person who is determined by a medical commission to be physically unable to serve is offered "alternative service," which usually means paying 30 percent of one's salary to the Ministry of Defense for one year. University students can defer their service, and some universities have programs that will substitute for military service. There are also options to pay a fee in lieu of service.

*Trafficking in Persons.*—The law prohibits trafficking in persons for all purposes; however, there were reports that persons were trafficked to, from, through, and within the country. The government took action to combat this problem.

In 2008 the government strengthened penalties against convicted traffickers. The law, officially titled "Trafficking in Persons," formally defines and criminalizes all severe forms of human trafficking. The base punishment for first-time offenders is three to five years in prison. The punishment increases to eight to 12 years in prison for instances of trafficking two or more persons, using force or threat, recidivism, group conspiracy, abuse of official position, and cases involving the death of trafficking victims. Unlike under the previous code, the new law generally does not grant amnesty to individuals who receive prison sentences of 10 years or more.

The country was primarily a source and, to a lesser extent, a transit point for trafficking women and girls for commercial sexual exploitation and men for labor exploitation. NGOs and the government reported labor trafficking was much more prevalent than trafficking for sexual exploitation and was likely rising due to poor economic conditions.

During the year there were credible reports that women were trafficked to the United Arab Emirates (UAE), China, India, Russia, Kazakhstan, Thailand, Turkey, Ukraine, Indonesia, and Sri Lanka. There were also reports of victims transiting Kyrgyzstan, Kazakhstan, Georgia, and Azerbaijan for other destinations. According to a local antitrafficking NGO, most female trafficking victims were sent to the UAE and Turkey via Azerbaijan and Kazakhstan. Labor trafficking victims, mostly male, typically were trafficked to Kazakhstan and Russia to work in the construction, agricultural, and service sectors. Some transit of trafficked persons also may have taken place from neighboring countries and to or from countries for which the country was a transportation hub—Thailand, Malaysia, Indonesia, India, South Korea, and the UAE. Women between the ages of 17 and 30 were vulnerable to sexual exploitation, and men of all ages were targets for labor trafficking. A local antitrafficking NGO registered 617 cases of human trafficking during the year involving 371 female victims and 246 male victims, compared with 529 in 2008 and 659 in 2007.

Traffickers operating within nightclubs, restaurants, or prostitution rings solicited women, many of whom engaged in prostitution. In large cities such as Tashkent and Samarkand, traffickers used fraudulent newspaper advertisements for marriage and fraudulent work opportunities abroad to lure victims. Travel agencies promising tour packages and work in Turkey, Thailand, and the UAE were also used to recruit victims. In most cases, traffickers confiscated travel documents once the women reached the destination country. Victims of labor trafficking were typically recruited in local regions and driven to Kazakhstan or Russia, where they were often sold to "employers." Traffickers held victims in a form of debt bondage, particularly in the case of those trafficked for sexual exploitation.

Recruiters tended to live in the same neighborhood as the potential victims and often may have known the victims. These recruiters introduced future victims to the traffickers, who provided transportation, airline tickets, visas, and instructions about meeting a contact in the destination country. There were also reports of former victims being used to recruit new victims.

All law enforcement agencies are charged with upholding the antitrafficking provisions of the criminal code. Enforcement appeared to improve during the year. In October the MOI reported that between January and September, authorities opened 959 criminal cases against suspected traffickers: 318 for sex trafficking and 641 for labor trafficking. On September 17, a state publication noted that between January and September, there were 2,941 victims of trafficking in the country.

State-controlled media consistently warned against the risk of being trafficked and reported the convictions of alleged traffickers. For example, on July 29, state-controlled television in Samarkand broadcast a program dedicated to victims of human trafficking, noting that in the first six months of the year, nearly 100 labor

migrants from Samarkand died abroad. On September 24, a television station reported in a program dealing with trafficking that authorities uncovered 60 cases of human trafficking in the Ferghana Region in the first eight months of the year, and of that number, 27 charges against 34 persons went to court.

Government offices with responsibility for fighting trafficking included the MOI's Office for Combating Trafficking, Crime Prevention Department, and Department of Entry-Exit and Citizenship; the NSS's Office for Fighting Organized Crime, Terrorism, and Drugs; the Office of the Prosecutor General; the Ministry of Labor; the Consular Department of the Ministry of Foreign Affairs; and the State Women's Committee. A government Inter-Agency Commission on Combating Trafficking in Persons meets quarterly and consists of representatives from the foregoing government entities.

There were no reported investigations of government corruption in trafficking.

There were no reports that the government prosecuted victims of trafficking for illegal migration in the course of being trafficked. There were unconfirmed reports of law enforcement officials involved in trafficking-related bribery and fraud.

Repatriated victims often faced societal and familial problems upon return. Internationally supported NGOs operated two shelters in Tashkent and Bukhara to help victims reintegrate into society. There were no reports of local police harassing shelter residents. The NGO implementer reported a good working relationship with authorities, who often contacted the shelter with new referrals. During the year NGOs reported assisting 336 victims (241 female and 95 male) trafficked for sexual and labor exploitation.

On November 18, the government opened the Republican Rehabilitation Center, which began providing medical, psychological, and legal services for as many as 35 victims of trafficking at any one time. Unlike the two NGO-run shelters, this center provides services to men, as well as women.

The government cooperated with the International Organization for Migration (IOM) to provide assistance to repatriated trafficking victims. The IOM also reported that police, consular officials, and border guards referred women returning from abroad who appeared to be trafficking victims to the organization for services. The government routinely allowed the IOM to assist groups of returning women at the airport, help them through entry processing, and participate in the preliminary statements the victims gave to the MOI.

In several different regions, antitrafficking NGOs, with the participation of law enforcement and local government officials, conducted seminars for orphanages, secondary schools, and higher education institutions; placed antitrafficking notices in local newspapers; and developed informational brochures and educational manuals for teachers and students. In July the IOM completed a three-year project with a local NGO to combat trafficking in persons and protect victims. The program trained approximately 1,300 law enforcement officers in prosecuting trafficking cases and providing assistance to victims. Through this program the government sent delegations on study visits in June to Poland and July to Turkey to meet with counterparts, compare best practices, and improve international communication related to prosecuting trafficking cases and providing assistance to victims.

During the year the government continued to focus on trafficking prevention. A specialized antitrafficking unit in the MOI continued to cooperate with NGOs on antitrafficking training for law enforcement and consular officials. The unit also supported victims who testified against traffickers and organized public awareness campaigns. The Agency for External Labor Migration (under the Labor Ministry) takes anonymous reports of trafficking through two hotlines and via its Web site.

Government-controlled media routinely carried targeted articles and programs raising awareness about the dangers of trafficking for both sexual and labor exploitation. Government-owned television stations worked with local NGOs to broadcast antitrafficking messages and to publicize the regional NGO hotlines that counseled actual and potential victims. The government allowed NGOs to place posters about trafficking hazards on public buses, in passport offices, and in consular offices abroad.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—On February 27, the government signed the UN Convention on the Rights of Persons with Disabilities. The convention clarifies the rights of persons with disabilities and identifies areas where adaptations must be made to allow persons with disabilities to exercise their rights effectively.

On March 5, an advocate for the rights of persons with disabilities was convicted of bribery and given a suspended sentence of two years and a fine of 12 million soums (\$8,500). Many believe the charges were fabricated as a result of his advocacy and criticism of the government.

There was some societal discrimination against persons with disabilities. The government provided care for persons with mental disabilities in special homes.

In March the cabinet of ministers adopted a resolution that requires medical facilities and all relevant public and private organizations to adopt and implement individual rehabilitation programs for persons with disabilities, to include medical, professional, and social rehabilitation of the disabled.

The Labor Ministry continued to participate in a two-year ACCESS (Accessibility, Civic Consciousness, Employment, and Society Support for Persons with Disabilities) project with several international partners, including the UNDP, UNICEF, the UN Educational, Scientific and Cultural Organization, and the UN Population Fund. The purpose of the project was to combat societal discrimination against persons with disabilities and expand social integration, employment, and inclusive educational opportunities. The program trained NGOs, journalists, government authorities, social workers and employment specialists as well as university students with disabilities.

During the year there were no reports of facilities fined for being inaccessible to persons with disabilities. In 2008 the government amended the law to include provisions imposing fines of up to 70 times the monthly minimum wage for such violations.

Although many public places lacked access for persons with disabilities, there was some wheelchair access throughout the country. The law does not provide effective safeguards against arbitrary or involuntary institutionalization. During the year human rights activists reported that a number of persons with mental or physical disabilities were held at psychiatric hospitals despite showing no signs of mental illness. The Ministry of Health controlled access to health care for persons with disabilities, and the Ministry of Labor and Social Protection facilitated employment of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The constitution provides for the right of all citizens to work and to choose their occupation. Although the law prohibits employment discrimination on the basis of ethnicity or national origin, ethnic Russians and other minorities expressed concern about limited job opportunities. Senior positions in the government bureaucracy and business generally were reserved for ethnic Uzbeks, although there were numerous exceptions.

The law does not require Uzbek language ability to obtain citizenship, but language remained a sensitive issue. Uzbek is the state language, and the constitution requires that the president speak it. The law also provides that Russian is “the language of interethnic communication.” Russian was spoken widely in the main cities, and Tajik was spoken widely in Samarkand and Bukhara.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual activity is punishable by up to three years’ imprisonment. There were no known lesbian, gay, bisexual, and transgender (LGBT) organizations. There was no known perpetrated or condoned violence against the LGBT community. There were no known reports of official or societal discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care, but this may be attributed to the social taboo against discussing homosexual activity rather than to equality in such matters.

*Other Societal Violence or Discrimination.*—There was a social stigma against HIV/AIDS patients. Persons living with HIV reported social isolation by neighbors, public agency workers, health personnel, law enforcement officers, landlords, and employers after their HIV status became known. Recruits in the armed services found to be HIV-positive were summarily expelled. The MOI’s Department of Corrections continued efforts to raise awareness about the realities of HIV/AIDS in its training for prison staff. The government’s restrictions on local NGOs left only a handful of functioning NGOs to assist and protect the rights of persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to form and join unions of their choice. In practice workers generally did not exercise this right because they believed that, as in Soviet times, attempts to create alternative unions would be quickly repressed. The law declares unions independent of governmental administrative and economic bodies, except where provided for by other laws, for example, those that regulate fund and asset management by the unions. In practice unions remained centralized and dependent on the government. The state-run Board of the Trade Union Federation of Uzbekistan was the largest union, with official reports of 60 percent of employees participating. Although leaders of the federation could be elected by the union board, in reality they are appointed by the presi-

dent's office. All regional and industrial trade unions at the local level were state-owned. There were no independent unions. The law prohibits discrimination against union members and officers, but this prohibition was irrelevant due to the unions' close relationship with the government.

The law neither provides for nor prohibits the right to strike. There were unconfirmed reports that strikes took place in some factories because of delays in salary payments.

*b. The Right to Organize and Bargain Collectively.*—Unions and their leaders were not free to conduct activities without interference from the employer or from government-controlled institutions. The law provides the right to organize and to bargain collectively; in practice this right was not exercised. Unions were government-organized institutions that had little power, although they did have some influence on health and work safety issues.

The law states that unions may conclude agreements with enterprises, but because unions were heavily influenced by the state, collective bargaining in any meaningful sense did not occur. The ministry of labor and social protection and the ministry of finance, in consultation with the Council of the Federation of Trade Unions (CFTU), set wages for government employees. In the small private sector, management established wages or negotiated them individually with persons who contracted for employment. There is no state institution responsible for labor arbitration.

The law gives unions oversight for individual and collective labor disputes.

A free trade zone has been established in Navoi, but there are no special laws or exemptions from regular labor law within that zone.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law prohibit forced or compulsory labor, including by children, except as legal punishment for such offenses as robbery, fraud, or tax evasion, or as specified by law; however, there were reports that such practices occurred, particularly during the cotton harvest, when authorities reportedly compelled medical workers, government personnel, schoolchildren, university students, and others to pick cotton.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Laws exist to protect children from exploitation in the workplace, but those laws were not effectively enforced. The national labor code establishes the minimum working age at 16 and provides that work must not interfere with the studies of those younger than 18. The law establishes a right to a part-time job beginning at age 15, and children with permission from their parents may work a maximum of 24 hours per week when school is not in session and 12 hours per week when school is in session. Children between the ages of 16 and 18 may work 36 hours per week while school is not in session and 18 hours per week while school is in session. Children as young as seven or eight years old worked in family businesses in cities during school holidays and vacations, and children also worked in street vending, services, construction, building materials manufacturing, and transportation. Many schools, particularly in rural areas, closed for six to eight weeks during the fall cotton harvest and sent students to work in the fields.

The government did not invite or allow the ILO to conduct a baseline assessment of child labor in the cotton sector. The government took limited steps during the year to implement its April 2008 adoption of ILO Conventions 182 (On the Worst Forms of Child Labor) and 138 (On the Minimum Age of Employment), its September 2008 adoption of a national action plan on implementation of the ILO Conventions that called for abolishing the mobilization of children for the annual cotton harvest, and the prime minister's 2008 decree banning child labor in the cotton harvest.

On June 10, a local human rights group in Karakalpakstan reported that all students in lyceums, colleges, institutes, and universities were forced to weed cotton fields under conditions of inadequate food, drinking water, and housing.

On June 26, the Ministry of Labor and Social Protection issued a list of jobs with unfavorable working conditions, including cotton picking, in which children younger than 18 cannot be involved.

On December 21, President Karimov signed laws strengthening the penalties for using child labor. Under the new rules, public officials who violate labor legislation involving a minor is subject to a fine of five to 10 times the minimum wage (an increase from two to five times the minimum wage), and private individuals are fined one to three times the minimum wage.

On December 24, the president signed amendments to article 77 of the labor code and to article 20 of the law "On the Guarantees of the Rights of the Child." The new amendments abolish a provision that allowed 14-year-olds to be involved with "light work" that did not interfere with education or hinder the health or develop-

ment of the child. The minimum age for employment remains at 16, although 15-year-olds may engage in light work with the permission of a parent.

During the year's fall harvest, there were reports that schools closed in the Syrdarya, Gulistan, Tashkent, Khoresm, Jizzakh, Bukhara, and Surhandarya regions. Reports stated that local administrators closed schools and transported students as young as 12 or 13 years of age to work in the cotton fields, but the majority of the students were from grades nine through 12, or generally over age 14. Unlike in the past, classes remained in operation at the younger grade levels. Students made between 70 and 80 soum (\$.05) per kilo (2.2 pounds) of cotton picked and were expected to pick 20 to 40 kilos per day, depending on their age, for a daily wage of between 1,400 and 3,200 soum (\$1.00 to 2.00) per day.

There were several reports that working conditions for children deteriorated during the year, with neither farmers nor the government providing sufficient food, water, or lodging for the children.

Universities also reportedly closed and sent students to work in the fields. One report stated that some university students who refused to work in the cotton fields were expelled, and several others were threatened with expulsion. Teachers and school administrators were expected to participate either as foremen or by picking cotton directly. Other government workers were mobilized to work in the fields.

The government does not allow independent organizations to assess comprehensively child labor in the cotton sector, nor does it provide figures on the use of child labor in the country.

The legislation does not explicitly provide jurisdiction for inspectors from the Ministry of Labor and Social Protection to focus on child labor enforcement. Enforcement of child labor laws is under the jurisdiction of the Labor Ministry, the prosecutor general, and the MOI and its general criminal investigators. There were no known prosecutions for using child labor during the year.

The law provides both criminal and administrative sanctions against violators. The government reportedly reprimanded 150 officials for not complying with national orders to refrain from using child labor but did not provide information about the nature of the sanctions. Enforcement was difficult due in part to long-standing societal acceptance of government-compelled child labor as a method of cotton harvesting.

*e. Acceptable Conditions of Work.*—The Ministry of Labor and Social Protection, in consultation with the CFTU, sets and enforces the minimum wage. The minimum wage from August until December was 33,645 soum (\$22) per month; on December 1, it was raised to 37,680 soum (\$25). This did not provide a decent standard of living for a worker and family.

The law establishes a standard workweek of 40 hours and requires a 24-hour rest period. Overtime pay exists in theory, but it was rarely paid in practice.

The Ministry of Labor and Social Protection establishes and enforces occupational health and safety standards in consultation with unions. Reports suggested that enforcement was not effective. Although regulations provide for safeguards, workers in hazardous jobs often lacked protective clothing and equipment. In accordance with the Law on Workers' Safety, workers legally may remove themselves from hazardous work if an employer has failed to provide adequate safety measures for the job. Generally workers did not exercise this right, as it was not effectively enforced and employees feared retribution by employers.

In 2007 the country signed bilateral labor migration agreements with Russia to increase protections on a range of labor rights for the country's labor migrants. Under the agreement, citizens can apply through the Agency on External Labor Migration to receive permits to work legally in Russia. As of September approximately 5,000 persons had taken advantage of the program to work in Russia's agriculture and construction sectors. However, this was a small fraction of the estimated one million or more citizens already working in Russia, most of them illegally. The agency also has enabled more than 3,000 Uzbek citizens to work legally in South Korea. In addition, the Tashkent Employment Bureau established ties with Poland enabling citizens to travel there legally to work in construction.



There were reports that the number of women day laborers had increased, particularly in Khorezm region. In June a local NGO of that district reported that women day laborers fell outside the protection of the law and were hidden from socially oriented programs directed toward the protection and advancement of the rights of women. According to the report, they worked in difficult labor conditions and their health suffered accordingly. The UNDP reported that it was working with the government on a project aimed at protecting the human rights of women involved in labor migration and at increasing the quality of services relevant governmental and nongovernmental bodies provide to women migrant workers.

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## WESTERN HEMISPHERE

### ANTIGUA AND BARBUDA

Antigua and Barbuda is a multiparty, parliamentary democracy with a population of approximately 100,000. In parliamentary elections on March 12, which observers described as generally free and fair, the United Progressive Party (UPP) defeated the ruling Antigua Labour Party (ALP), and Baldwin Spencer was reelected as prime minister. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in a few areas, including excessive use of force by police, poor prison conditions, some limits on press freedom, societal discrimination and violence against women, and sexual abuse of children.

#### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution specifically prohibits such practices, and the authorities generally respected these prohibitions in practice. Nonetheless, there were occasional reports of police brutality, corruption, excessive force, discrimination against persons on basis of sexual orientation or gender identity, and allegations of abuse by prison guards.

There were several incidents during the year involving foreign citizens in which excessive police force was used, as well as threats of violence while in police custody. Foreign embassies were not notified on a timely basis, and on occasion consular access was denied. In one case six tourists from a cruise ship were involved in an altercation with a taxi driver who took them to a police station to complain. Police arrested them, and they alleged mistreatment by the local police including threats of violence.

In May 2008 authorities placed a police officer on administrative leave for the beating of a 17-year-old. The deputy police commissioner promised an investigation, and the officer retired. At year's end the officer still faced criminal charges.

*Prison and Detention Center Conditions.*—Prison conditions were very poor. Her Majesty's Prison, the country's only prison, was overcrowded, did not have toilet facilities, and slop pails were used in all 122 cells. It held 295 convicted prisoners at year's end.

Prison overcrowding was attributed in part to a law that limited the ability of magistrates to grant bail to those accused of certain offenses. This resulted in an increase in the number of persons held on remand or awaiting trial. Due to space limitations, authorities sometimes held persons on remand together with convicted prisoners.

Female prisoners were held in a separate section and were not subject to the same problems encountered in the men's prison.

Juveniles were held with adult inmates.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred.

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

*Role of the Police and Security Apparatus.*—Security forces consist of a police force, the small Antigua and Barbuda Defence Force, and the Office of National Drug Control Policy, which coordinates law enforcement and prosecutorial action to

counter narcotics trafficking. The police force comprised more than 759 officers, 164 of whom were part of the country's fire brigade, and 595 police officers. The police force was male dominated, but the number of female officers increased to 120. In 2008 the government hired three former Royal Canadian Mounted Police officers to help professionalize the police force and combat corruption.

The police discipline department, which investigates complaints against the police, is headed by the deputy police commissioner and decides whether an investigation is conducted. The police fall under the prime minister's area of responsibility, and he can call for an independent investigation into an incident as needed.

*Arrest Procedures and Treatment While in Detention.*—The law permits police to arrest without a warrant persons suspected of committing a crime. Criminal defendants have the right to a prompt judicial determination of the legality of their detention. The police must bring detainees before a court within 48 hours of arrest or detention. Criminal detainees were allowed prompt access to counsel and family members. There were cases in which authorities denied foreign national criminal detainees prompt consular access and delayed notification of detention to the foreign government. Some foreign national detainees claimed police used excessive force and threats of violence against them while in detention; the government investigated these allegations and found no evidence to support them. The bail system requires those accused of more serious crimes to appeal to the High Court for bail, taking this responsibility away from the lower court magistrates.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

The judicial system is part of the Eastern Caribbean legal system and reflects historical ties to the United Kingdom. The first level is the magistrate's court, followed by the court of appeals and the High Court. The constitution designates the Privy Council in the United Kingdom as the final court of appeal, which is always employed in the case of death sentences.

*Trial Procedures.*—The constitution provides that criminal defendants should receive a fair, open, and public trial, and an independent judiciary generally enforced this right. Trials are by jury. Defendants enjoy a presumption of innocence, have timely access to counsel, may confront or question witnesses, and have the right to appeal. In capital cases only, the government provides legal assistance at public expense to persons without the means to retain a private attorney. Courts often reached verdicts quickly, with some cases coming to conclusion in a matter of days.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—A court of summary jurisdiction, which sits without a jury, deals with civil cases involving sums of up to EC\$1,500 (\$550); three magistrate's courts deal with summary offenses and civil cases of not more than EC\$500 (\$185) in value. Persons may apply to the High Court for redress of alleged violations of their constitutional rights.

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

In June 2007 the Privy Council rejected an appeal by the former owner of property expropriated by the government in 2002. (The owner alleged abuse of power, harassment, and threats by the government to acquire the property.) Despite repeated attempts by the owner to resolve the case, at year's end, the government had not provided prompt, adequate, and effective compensation to the claimant, as stipulated under law, and was seeking to sell the property to a third party, prior to settling with the previous owner.

#### *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 government respected these rights on a somewhat limited basis. Privately-owned print media, including daily and weekly newspapers, were active and offered a range of opinion. Politicians in both parties often filed libel cases against members of the other party. In May the prime minister paid an out-of-court settlement to ALP Parliamentarian Asot Michael.

There was continued tension between the government and ZDK Radio, which is owned by the family of Lester Bird, the former prime minister and leader of the opposition ALP.

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

ing by e-mail. According to the International Telecommunication Union, there were 15 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—Rastafarians complained of discrimination, especially in hiring and in schools, but the government took no specific action to address such complaints. There were no other reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

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

*Protection of Refugees.*—The law provides for granting asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened.

The government did not grant refugee status or asylum during the year. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers, but normally the government immediately deported foreigners who could not provide legal documentation.

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

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

*Elections and Political Participation.*—In elections on March 12, the opposition UPP won nine of 17 seats in the House of Representatives and 50 percent of the popular vote. Members of the Organization of American States observer group reported that the elections were free and fair. UPP leader Baldwin Spencer remained in power. At year's end the courts were considering various legal challenges to the election results.

Political parties could operate freely without restriction or outside interference.

There were two women in the 19-seat House of Representatives and five women appointed to the 17-seat Senate. The governor general, the speaker of the House of Representatives, and the president of the Senate, all appointed positions, were women. There was one woman in the cabinet.

There was one member of a minority in parliament.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year. No information was available about the results of investigations of former ALP officials by a Special Task Force on Crime and Corruption established after the 2004 elections. Investigation targets included the former prime minister, a former finance minister, and a former ambassador. Both political parties frequently accused the other of corruption, but investigations yielded little or no results.

The Integrity in Public Life Act requires public officials to disclose all income, assets (including those of spouses and children), and personal gifts while in public office. The law established an Integrity Commission, appointed by the governor general, to receive and investigate complaints regarding noncompliance with or contravention of any provisions of this law or the Prevention of Corruption Act.

The Freedom of Information Act gives citizens the statutory right to access official documents from public authorities and agencies, and it created a commissioner to

oversee the process. In practice citizens found it difficult to obtain documents, possibly due to government funding constraints rather than obstruction.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

The government cooperated with international organizations and consulted regularly with UN representatives.

There is an ombudsman, an independent authority appointed by the prime minister, to deal with complaints about the police and other government officials. However, the office lacked the resources to provide effective oversight for the entire government and did not produce regular reports.

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

The constitution prohibits discrimination based on race, sex, creed, language, or social status, and the government generally respected these prohibitions in practice.

*Women.*—Rape, including spousal rape, is illegal and carries maximum sentences (rarely imposed) ranging from 10 years' to life imprisonment. As many as four rapes were reported every month. The directorate of gender affairs, part of the Ministry of Labor, Public Administration, and Empowerment, established and publicized a crisis hotline for victims and witnesses to sexual assault. When rape cases are reported to the police, a female police officer accompanies the victim for both questioning and medical examinations. Once the doctor's report is completed, an investigation commences. If a suspect is arrested, he is placed in a line-up and must be identified by the victim face to face, without the use of a one-way mirror. There were 58 rape cases, of which 28 led to prosecution, during the year. In situations where the victim did not know her assailant, the cases rarely made it to trial. At year's end the government was working with a task force from Canada to target suspected serial rapists.

Violence against women, including spousal abuse, was a problem. The law prohibits and provides penalties for domestic violence, but many women were reluctant to testify against their abusers. The directorate of gender affairs operated a domestic violence program that included training for police officers, magistrates, and judges. The directorate also ran a domestic abuse hotline and worked with a nongovernmental organization (NGO) to provide safe havens for abused women and children. Services for victims of domestic violence included counseling and an advocacy case worker who accompanied the victim to the hospital and police station.

Prostitution is prohibited by law, but it remained a problem. There were a number of brothels that catered primarily to the local population.

Sexual harassment is illegal, but it was rarely prosecuted. According to the Labor Department, there was a high incidence of sexual harassment incurred by employees in both the private and public sectors. However, only four cases were formally reported during the year; the small number was believed to result from concerns about retaliation.

Reproductive rights of women were protected. Couples and individuals had the right to decide freely and responsibly the number, spacing and timing of their children, and had the information to do so free from discrimination, coercion, and violence. There was adequate access to contraception. Most women gave birth in hospitals. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

While the role of women in society is not restricted legally, economic conditions in rural areas tended to limit women to home and family, although some women worked as domestics, in agriculture, or in the large tourism sector. Women were well represented in the public sector, accounting for 54 percent of the public service and more than half of the permanent secretaries—the most senior level in each government department. In addition 41 percent of bar association members were women. There was no legislation requiring equal pay for equal work, but women faced no restrictions involving ownership of property.

*Children.*—Citizenship is acquired by birth in the country, and all children were registered at birth. Children born to citizen parents abroad can be registered by either of their parents.

Schools faced many shortages in supplies due to lack of resources.

Child abuse remained a problem. The press reported regularly on the rape and sexual abuse of children. Adult men having regular sexual relations with young girls was also a problem. According to one regional human rights group, the girls

were often the daughters of single mothers with whom the perpetrators also had regular sexual relations.

Statutory rape is illegal; the minimum age for consensual sex is 14. Despite a maximum penalty of 10 years to life, authorities brought charges against few offenders, and those convicted did not serve long jail terms due to lack of witness cooperation. Child pornography is illegal, but no information was available about penalties for it.

*Trafficking in Persons.*—There are no laws that specifically address trafficking in persons.

The country was a destination for women trafficked from Guyana, Haiti, Jamaica, and the Dominican Republic for the purposes of sexual exploitation; it may also be a destination country for women trafficked for the purposes of forced domestic servitude. Women voluntarily came to the country to engage in prostitution; brothel managers later confiscated their passports and threatened the women with deportation until they repaid the brothel owner for travel and other expenses. Some victims trafficked for the purpose of sexual exploitation had been given work permits as “entertainers” to legally enter the country. However, authorities usually deported victims immediately, before information on possible trafficking could be obtained.

There were two cases in 2008 in which persons were trafficked to the country to work in local brothels. Authorities deported one victim, and the other voluntarily returned to her home country with the support of the Bureau of Gender Affairs. In neither case were charges brought against the brothel owners.

The State Department’s annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—There was no reported discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Although the constitution contains antidiscrimination provisions, no specific laws prohibit discrimination against, or mandate accessibility for, persons with disabilities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual acts are illegal, carrying a maximum penalty of 15 years in prison.

There were no reports of violence or discrimination based on sexual orientation. There was no information as to the existence of any lesbian, gay, bisexual, or transgender organizations in the country.

*Other Societal Violence or Discrimination.*—There were no reports of violence or discrimination directed toward persons with HIV/AIDS. The Ministry of Health supported local NGO efforts to register human rights complaints and seek assistance related to cases of discrimination against those with HIV/AIDS. The Ministry of Labor encouraged employers to be more sensitive to employees with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—Workers have the right to associate freely and to form labor unions. Approximately 60 percent of workers in the formal sector belonged to a union. Unions were free to conduct their activities without government interference. Labor unions formed an important part of the base of both political parties.

The labor code provides for 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, petroleum, health, and safety workers) must give 21 days’ notice of intent to strike. Once either party to a dispute requests that the court mediate, strikes are prohibited under penalty of imprisonment. Because of the delays associated with this process, unions often resolved labor disputes before a strike was called. In addition an injunction may be issued against a legal strike when the national interest is threatened or affected.

Labor law prohibits retaliation against strikers, and the government effectively enforced those laws.

*b. The Right to Organize and Bargain Collectively.*—The law allows labor organizations to organize and bargain collectively without interference, and the government protected this right. The law prohibits antiunion discrimination by employers but does not specifically require reinstatement of workers illegally fired for union activity, although a court could impose it.

There were no special laws or exemptions from regular labor laws in export processing zones.

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

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law stipulates a minimum working age of 16 years, which corresponds with the provisions of the Education Act. In addition persons under 18 years of age must have a medical clearance to work and may not work later than 10 p.m. The Ministry of Labor, which is required by law to conduct periodic inspections of workplaces, effectively enforced this law. The labor commissioner's office also had an inspectorate that investigated exploitive child labor matters.

*e. Acceptable Conditions of Work.*—The labor code provides that the minister of labor may issue orders, which have the force of law, to establish a minimum wage. Tripartite consultations were held when the minimum wage was set. The minimum wage was EC\$7.00 (\$2.59) an hour for all categories of labor, which provided a barely adequate standard of living for a worker and family. In practice the great majority of workers earned substantially more than the minimum wage.

The law provides that workers are not required to work more than a 48-hour, six-day workweek, but in practice the standard workweek was 40 hours in five days. Laws provide for overtime work in excess of the standard workweek; excessive or compulsory overtime is not specifically prohibited.

Although the government had not developed occupational health and safety laws or regulations apart from those regarding child labor, the labor code includes provisions regarding occupational safety and health. While not specifically provided for by law, in practice workers could leave a dangerous workplace situation without jeopardy to continued employment.

## ARGENTINA

Argentina is a federal constitutional republic with a population of approximately 40.9 million. Cristina Fernandez de Kirchner won the presidency in October 2007 in multiparty elections that media and various nongovernmental organizations (NGOs) described as generally free and fair. Civilian authorities generally maintained effective control of the security forces, although there were some instances of abuse.

While the government generally respected the human rights of its citizens, the following human rights problems were reported: killings and use of excessive force by police or security forces; police and prison guard abuse and alleged torture of suspects and prisoners; overcrowded and substandard prison and jail conditions; occasional arbitrary arrest and detention; prolonged pretrial detention; continued weak judicial independence; official corruption; domestic violence against women; child abuse; trafficking in persons for sexual and labor exploitation, primarily within the country; and child labor.

During the year the courts convicted 34 perpetrators of human rights abuses committed during the 1976-83 military dictatorship and continued trials that were suspended in 1989-90 when the government pardoned such perpetrators.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, there were reports of deaths as a result of police using unwarranted or excessive force. Generally, officers accused of wrongdoing were administratively suspended until completion of an investigation. Authorities investigated and in some cases detained, prosecuted, and convicted the officers involved.

A November report by the NGO Coordinator Against Police Repression (CORREPI) claimed that security forces using excessive force killed 392 persons between mid-December 2007 and mid-November 2009. The Center for Legal and Social Studies (CELS) reported a 12 percent increase in deaths as a result of police using unwarranted or excessive force from June 2008 to June 2009.

On July 20, an off-duty police officer shot and killed a 26-year-old man at a nightclub in Zarate. Authorities arrested the officer who claimed the victim had attempted to rob him. The suspect was in prison awaiting trial at year's end.

On July 29, Sergeant Sergio Borgino in Mendoza Province reportedly shot and killed a sixteen-year-old boy who was attempting to break into his car and then disposed of his body in a dump. Authorities charged Borgino with aggravated homicide. His trial was pending at year's end.

On October 23, two police officers reportedly shot 15-year-old Juan Carlos Quiroz in Pergamino and then disposed of his body in a nearby field. The Minister of Secu-



rity of Buenos Aires Province dismissed both officers and an investigation was pending at year's end.

In February authorities sentenced Buenos Aires police sergeant Carlos Madrid to 12 years' imprisonment for the 2007 off-duty killing of 18-year-old Daniel Ezequiel Cespedes. The victim's family appealed the decision, claiming the sentence was not harsh enough.

On May 6, a criminal court acquitted five police officers and the police chief of Ramos Mejia in Buenos Aires Province, who were charged with the February 2008 murder of Gaston Duffau. Duffau died from multiple blows to the body and asphyxia.

There were no developments in the case against two police officers allegedly involved in the January 2008 killing of Sergio Enciso in Buenos Aires Province.

The trial regarding the 1991 police killing of Walter Bulacio continued as recommended by the Inter-American Court on Human Rights.

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

Authorities continued to investigate and prosecute individuals implicated in disappearances, killings, and torture committed during the 1976-83 military dictatorship. CELS estimated that there were 204 ongoing judicial investigations and 526 persons charged for crimes against humanity committed during the military dictatorship. Of those charged, 385 remained in pretrial detention. According to the Supreme Court's Office for Follow-up on Crimes Against Humanity, during the year authorities convicted 34 persons of human rights violations committed during the military dictatorship compared to 18 individuals in 2008, a 70 percent increase in convictions. An additional 88 cases were pending at year's end.

On March 16, a federal court extended former navy lieutenant commander Ricardo Cavallo's pretrial detention by one year. At year's end Cavallo was awaiting trial on charges of crimes against humanity committed during the military dictatorship.

On August 13, the Federal Court of San Martin sentenced Santiago Omar Riveros, former chief of the Military Institute Command, to life imprisonment related to the 1976 murder of Floreal Avellaneda and the kidnapping and torture of Avellaneda's mother. During the same trial, former director of the Infantry School Jorge Osvaldo Garcia received an 18-year sentence and former chief of police Fernando Ezequiel Verplaetsen received a 25-year sentence for their involvement in the crime.

On October 1, former Formosa governor Juan Carlos Colombo was convicted of human rights violations committed during the military dictatorship and was sentenced to 25 years in prison.

On October 28, the former National University Concentration chief, Eduardo Cincotta, died of lung cancer. Authorities had charged Cincotta for human rights crimes he allegedly committed while working in a clandestine detention center in Mar de Plata, but in October the Federal Appellate Court released him from pretrial detention in light of his medical condition. Five other individuals arrested with Cincotta under the same charges remained in pretrial detention at year's end.

On October 16, a federal criminal court sentenced two former colonels, Juan Antonio Beltrametti and Carlos Humberto Caggiano Tedesco, to life in prison after they were found guilty of giving orders in Misiones during the military dictatorship that resulted in illegal deprivation of liberty, torture, and death.

On October 23, the Federal Criminal Court sentenced former general Jorge Olivera Rovere and former colonel Bernardo Jose Menendez to life imprisonment for their role in abductions and murders that occurred during the military dictatorship.

On November 2, a trial against former president and general Reynaldo Benito Antonio Bignone began in Buenos Aires Province. Bignone and several other former government officers were charged with committing 58 counts of kidnapping and torture at Campo de Mayo, the country's largest clandestine detention center. Several of Bignone's co-defendants, Santiago Omar Riveros, Fernando Ezequiel Verplaetsen, and Jorge Osvaldo Garcia, were convicted and sentenced for other human rights violations in August.

On July 7, Spanish authorities arrested Alberto Soza, a former assistant federal police commissioner from Neuquen, for his connection in 18 cases of kidnapping and torture that occurred during 1975 and 1977. Soza was in Madrid awaiting extradition at year's end.

There were no known developments regarding the March 2008 charges against former economy minister Jose Martinez de Hoz for the death of economist Juan Carlos Casariego Del Bel.

Ernesto Barreiro remained in pretrial detention for human rights abuses he allegedly committed while serving as army officer and chief interrogator at the La Perla

clandestine torture center during the military dictatorship. A trial date had not been set by year's end.

There were no developments in the trial of former police officers Fernando Esvedes and Carlos Vercellone, arrested in April 2008 for their alleged role in political kidnappings and torture in the clandestine detention center Pozo de Arana during the military dictatorship.

An investigation into the 1973 killing of General Labor Confederation leader Jose Ignacio Rucci continued at year's end.

At year's end a Supreme Court decision was pending on a Court of Criminal Appeals order that 21 military officials accused of human rights violations during the military dictatorship be released on bail. The military officials remained in detention.

Judicial authorities continued to investigate cases of kidnapping and illegal adoption by members of the former military dictatorship of children born to detained dissidents. On November 18, Congress passed a law allowing the government to order DNA testing if an individual refuses a blood test. At year's end, 100 of an estimated 500 persons born to detained and disappeared dissidents and illegally adopted had been identified and made aware of their backgrounds.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and other cruel, inhuman, or degrading treatment or punishment and provides penalties for torture similar to those for homicide. However, there were reports that some police and prison guards continued to employ torture and brutality. CELS reported police brutality and occasional alleged torture of suspects, particularly during prison transfers. While the government investigated such reports, there were few convictions.

In September several guards at the Melchor Romero prison reportedly tortured prison guard Carlos Maidana, while another guard taped the incident. Maidana filed a complaint against the four officers, which was under investigation by the prosecutor's office at year's end. The minister of justice dismissed the four officers along with the director and vice director of the prison.

*Prison and Detention Center Conditions.*—Prison conditions often were poor. Inmates in many facilities suffered from extreme overcrowding, poor nutrition, inadequate medical and psychological treatment, inadequate sanitation, limited family visits, and frequent inhuman and degrading treatment, according to various reports by human rights organizations and research centers. Buenos Aires provincial penitentiaries were overcapacity by an estimated 39 percent. According to CELS, there was a 9 percent increase from 2008 in the number of prisoners in penitentiaries and police stations in Buenos Aires Province.

The Buenos Aires Provincial Memory Commission's Committee Against Torture indicated that during 2008, 112 prisoners died in Buenos Aires Province prisons. The deaths were attributed to fights, suicides, general injuries, and diseases.

A September Amnesty International (AI) investigation into the death of eight prisoners in Mendoza Province concluded that they were murdered by other prisoners. During the year AI's country director claimed that the number of crimes, violence, illegal weapons, and unsanitary conditions in Mendoza's prisons were rising. The Mendoza government acknowledged these issues and created the position of a prison ombudsman to receive and investigate prisoners' complaints and increased training for prison officials. In November the Supreme Court of Justice ordered Mendoza Province to improve the Boulogne Sur Mer prison facilities, giving them 60 days to develop a working plan.

According to an August report of the Buenos Aires Provincial Memory Commission's Committee Against Torture, practices such as beatings, the use of a cattle prod, cold water showers, and forced isolations within Buenos Aires prisons was common.

A Buenos Aires Provincial Court of Appeal's decision regarding police mistreatment of prisoners during prison transfers was pending at year's end.

While women were held separately from men, the law permits children to stay in prison with their mothers until age four. Press reports estimated that 82 children under the age of four lived with their mothers in federal prisons. CELS reported that in Buenos Aires provincial prisons, 92 children remained with their mothers. In general men's prisons were more violent, dangerous, and crowded than women's prisons.

Overcrowding in juvenile facilities often resulted in minors being held in police station facilities, although separate from adult detainees. The Buenos Aires Provincial Memory Commission's Committee Against Torture estimated overcrowding in Buenos Aires Province juvenile facilities at 30 percent. According to a 2007 UN Children's Fund and National Secretariat for Human Rights report, juvenile facili-

ties held approximately 20,000 children, 20 percent of whom were under age 16. The overwhelming majority had not committed a crime; rather, they were abandoned by their families or considered “at risk” for other reasons.

According to the United Civil Association for Justice, juvenile detention centers in Buenos Aires Province were often in a poor state of security, health, and infrastructure. The Association’s officials reported overcrowded conditions, with inadequate psychological services and understaffing. The Buenos Aires Provincial Memory Commission’s Committee Against Torture indicated that approximately 6,500 complaints of human rights violations against juvenile detainees were filed in provincial prisons and juvenile detention facilities in Buenos Aires Province in 2008, the majority of which were pending investigation at year’s end.

According to press reports, 85 percent of female pretrial detainees and 76 percent of male pretrial detainees were held in locations with convicted prisoners. In 2008 CELS estimated that 53 percent of those in federal prison were awaiting trial.

There were no known developments in the Buenos Aires Provincial Court trial initiated in November 2008 against Buenos Aires Magdalena Provincial Prison Director Carlos Tejada and 15 prison guards and officials accused of abandoning prisoners in a 2005 fire that killed 33 prisoners.

The government permitted independent prison visits by local and international human rights observers, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, police reportedly arrested and detained citizens arbitrarily on occasion.

*Role of the Police and Security Apparatus.*—The Federal Police have jurisdiction for maintaining law and order in the federal capital and for federal crimes in the provinces. Other federal police authorities include the Airport Security Police, the Gendarmerie, the Coast Guard, and the Bureau of Prisons. Additionally, each province has its own police force that responds to a provincial security ministry or secretariat. Individual forces varied considerably in their effectiveness and respect for human rights.

Cases of corruption were reported in some forces. The most frequent abuses included extortion of, and protection for, those involved in drug trafficking and prostitution. Internal controls to counter police abuses were weak.

The federal security forces have the authority to conduct internal investigations into alleged abuses and to fire individuals who have allegedly committed a human rights violation. The federal government can also file complaints with the federal courts; provincial governments may do the same for provincial security forces. Members of security forces convicted of a crime were subject to stiff penalties.

Between January and December, federal security forces opened 120 investigations into police officials suspected of corruption and criminal involvement. Press sources indicated that approximately 40,000 administrative or disciplinary investigations against police officers were pending at year’s end.

According to La Nacion newspaper, from 2008-2009, authorities investigated 13,619 police for acts of corruption, violence, or irregularities in job performance in Buenos Aires Province. This was approximately 25 percent of the provincial police force and a 75 percent increase in investigations from 2006-2007. Of those investigated, 872 were relieved of duty and 1,779 were reassigned to different positions.

*Arrest Procedures and Treatment While in Detention.*—Persons generally were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official; however, police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded belief that the suspects have committed, or are about to commit, a crime or are unable to determine the suspected person’s identity. Human rights groups reported that the police occasionally arrested persons arbitrarily and detained suspects longer than 10 hours.

The law provides a person in detention with the right to a prompt determination of the legality of the detention, which entails appearance before a lower criminal court judge, who determines whether to proceed with an investigation. There were some delays in this process and in informing detainees of the charges against them.

The law provides for the right to bail, except in cases involving narcotics, violent crimes, and firearms violations. Although the bail system was used, civil rights groups claimed that judges were more likely to order the holding of indicted suspects in preventive or pretrial detention than to allow suspects to remain free pending their trial.

Detainees were allowed prompt access to counsel, and public defenders were provided for detainees unable to afford counsel, although such access sometimes was delayed due to an overburdened system. Strong demand and a lack of resources for the Public Defender’s Office resulted in an excessive caseload for public defense at-

torneys. Although there were no official statistics on the percentage of detainees requesting public defense attorneys, human rights organizations estimated that 80 percent requested public defense attorneys. Detainees also were allowed access to family members, although not always promptly.

The law provides for investigative detention of up to two years for indicted persons awaiting or undergoing trial; the period may be extended for one year in limited situations. The slow pace of the justice system often resulted in lengthy detentions beyond the period stipulated by law. CELS reported that prisoners waited an average of three years to be tried, with some cases taking as long as six years. A convicted prisoner usually received credit for time already served.

In 2008 CELS indicated that nearly 75 percent of detainees in Buenos Aires Province were in pretrial detention. According to several human rights organizations, 30 percent of pretrial detainees were eventually acquitted.

*e. Denial of Fair Public Trial.*—The law provides for the right to a fair trial, and the judiciary generally enforced this right. However, judicial scholars continued to report inefficiencies and delays in the judicial system. Additionally, there were complaints that judges were at times subject to political manipulation.

The judicial system was hampered by inordinate delays, procedural logjams, changes of judges, inadequate administrative support, and general inefficiency caused by remnants of the inquisitorial criminal justice system used in federal and many provincial courts. Judges have broad discretion as to whether and how to pursue investigations, contributing to a public perception that many decisions were arbitrary. Allegations of corruption in provincial courts as well as federal courts located in the provinces were more frequent than federal courts with jurisdiction over the city and province of Buenos Aires, reflecting strong connections between the executive and judicial branches at the provincial level.

The country continued to lack a sufficient numbers of judges, and the Council of Magistrates sought to fill the void by appointing temporary judges to fill 116 of the more than 150 vacant judgeships.

The judicial system is divided into federal and provincial courts, both headed by a Supreme Court with appellate courts and district courts below it. The federal courts are divided into criminal, civil, commercial, labor, social security, and administrative courts.

*Trial Procedures.*—Trials are public, and defendants have the right to legal counsel and to call defense witnesses in federal and some provincial courts that have an accusatory system of criminal justice. Defendants enjoy a presumption of innocence and have the right to appeal as do prosecutors. If needed, a public defender is provided at public expense when defendants face serious criminal charges. During the investigative stage, defendants can submit questions in writing to the investigating judge. A panel of judges decides guilt or innocence. Although defendants and their attorneys have access to government-held evidence, in practice they sometimes experienced obstacles or delays in obtaining such evidence. Lengthy delays in trials occurred nationwide, with many cases taking five or more years to resolve.

Federal and provincial courts continued the transition to trials with oral arguments in criminal cases, replacing the old system of written submissions. Although the 1994 constitution provides for trial by jury, implementing legislation had not been passed by year's end. In Cordoba Province, however, defendants accused of certain serious crimes have the right to a trial by jury.

The human rights organization Fundacion Sur noted that the country lacked a separate juvenile justice system that affords adolescents due process protections equal to the rights extended to defendants in criminal trials. In addition this organization expressed concern that the broad discretion judges have in such cases increased the possibility of arbitrary rulings. Fundacion Sur asserted that 16- and 17-year-old offenders frequently were transferred to adult criminal courts or held in juvenile detention centers for longer periods than warranted by their offenses.

An ad hoc juvenile justice system operated in eight out of 18 districts in Buenos Aires city. It provides minors age 16 to 18 the same procedural rights as adults and limits sentences to 180 days in prison.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Citizens have access to the courts to bring lawsuits seeking damages or the protection of rights provided by the constitution. Administrative and judicial remedies are available for alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the government generally respected these prohibitions in practice. However, there were press reports and judicial investiga-

tions of electronic eavesdropping, possibly perpetrated by government agents without due authorization.

On October 8, former president Eduardo Duhalde alleged that during the year the Kirchner administration used the intelligence community to wiretap his conversations. Other prominent officials including journalists and judges made similar allegations. Authorities initiated an investigation into these claims.

On October 26, officials arrested former federal police officer *Ciro James* for illegally wiretapping numerous individuals. He remained in pretrial detention at year's end.

On October 27, three legislators from the opposition Civic Coalition party called for the secretary of intelligence to respond to wiretapping claims.

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

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

Individuals can criticize the government publicly or privately, but there were criminal penalties, including prison sentences, for libel and slander until Congress passed legislation decriminalizing libel and slander on November 18.

The independent media were numerous and active and expressed a wide variety of views without restriction.

On October 10, Congress passed a broadcast media law to replace legislation dating back to the 1976-83 military dictatorship. The new law mandates regulatory changes in three areas: ownership of mass communication channels, content, and regulatory oversight. It reduces the number of broadcast licenses an individual or company can hold from 24 to 10 and gives firms one year to comply with the new rules. The law creates a seven-member regulatory agency—two members appointed by the executive, three by Congress, and two from a federal council. At year's end the regulatory agency was inactive pending the appointment of its members. A December 16 lower court ruling establishes local content and other programming and advertising limitations, such as a minimum amount of Argentine programming content.

Numerous FM radio stations continued to broadcast with temporary licenses pending conclusion of a licensing normalization process.

In response to studies by NGOs Poder Ciudadano and the Association for Civil Rights expressing concerns that state advertising could be used as a political tool, the broadcast media law included an article stating that the country should follow "criteria of equity and reasonability" in the distribution of state advertising.

On February 11, a court ordered the government to distribute its official advertising budget to various publications of the Perfil publishing house. The court cited a 2007 Supreme Court precedent that ruled against a state government for indirectly curtailing freedom of speech via its distribution of state advertising.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that 28 percent of the population used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution also states that the federal government "sustains the apostolic Roman Catholic faith," and the government provided the Catholic Church with a variety of subsidies not available to other religious groups.

In order to obtain visas for foreign missionaries and obtain tax-exempt status, religious organizations must register with the Secretariat of Worship in the Ministry of Foreign Relations, International Trade, and Worship and report periodically to maintain their status.

*Societal Abuses and Discrimination.*—Sporadic acts of discrimination and vandalism against religious minorities, particularly the 300,000-member Jewish community, continued. The Delegation of Israeli Argentine Associations (DAIA) received 253 complaints of anti-Semitism during January and February, representing 82 percent of the total amount of complaints (302) filed in 2008. They reported a nearly four-fold increase in reports of anti-Semitic incidents in the first half of the year compared with the same period in 2008.

The most commonly reported incidents were anti-Semitic graffiti; verbal slurs; and the desecration of Jewish cemeteries, including 50 graves at the Jewish cemetery of La Tablada in September. A majority of the complaints were filed in the city of Buenos Aires. DAIA claimed that cases in the provinces were likely under-reported.

In January some political organizations exploited anti-Semitic imagery during protests outside the Israeli Embassy, the headquarters of the Argentine Jewish Mutual Aid Association (AMIA), the DAIA, and a hotel owned by the treasurer of the World Jewish Congress. The government's National Institute Against Discrimination, Xenophobia, and Racism (INADI) condemned the use of anti-Semitic imagery and lodged a criminal complaint over the discriminatory graffiti and banner used during the protests.

On May 16, approximately 20 members of the Revolutionary Action Front physically attacked participants at a Buenos Aires commemoration celebrating the 61st anniversary of the creation of Israel. The authorities arrested nine persons who remained in pretrial detention at the year's end.

The investigation into the 1994 bombing of the AMIA building in Buenos Aires that killed 85 persons continued. With INTERPOL assistance, the federal prosecutor investigating the case continued to seek the arrest of eight Iranians for their alleged involvement in the bombing. On May 27, the Supreme Court ordered the reopening of the investigation into Carlos Telleldin's alleged involvement in the bombing. A federal court had acquitted him in 2004. In addition the court's decision upheld the 2004 acquittal of former Buenos Aires provincial police officers accused of facilitating the attack, but opened the door to retrying them on extortion charges. On December 16, an appeals court ordered that Telleldin be retried. On October 10, the federal court indicted former president Carlos Menem, former secretary of intelligence Hugo Anzorreguy, and former federal judge Juan Jose Galeano for their alleged role in covering up and protecting those involved in the bombing.

On December 21, unidentified vandals desecrated 27 tombs and sprayed anti-Semitic graffiti on the perimeter wall of a Jewish cemetery in San Luis.

The government continued to support public dialogue to highlight past discrimination and to encourage religious tolerance, including the celebration of Freedom of Religion Day. On May 28, provincial education ministers made holocaust education mandatory in all secondary schools. The government collaborated with DAIA and other organizations during the year to create a recommended instruction manual for holocaust education.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

The law prohibits forced exile, and the government did not exile anyone.

*Protection of Refugees.*—The country is party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In April the government created the National Committee for Refugees (CONARE), an inter-ministerial body under the Ministry of the Interior replacing the Committee for Refugee Eligibility. From April to December, 389 persons sought asylum, and CONARE granted refugee status to 50 persons. According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), the country also resettled eight Colombians during the first half of the year, and approved the resettlement of 24 additional Colombians during December.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in particular social group, or political opinion.

The law allows the government to provide temporary protection for humanitarian reasons, including family reunification, to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The OHCHR noted that the government improved protection and assistance to unaccompanied children seeking refuge through a special and multidisciplinary committee under the National Ombudsman's Office.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In October 2007 Cristina Fernandez de Kirchner of the Front for Victory Party won the presidency in elections described by media and various NGOs as free and fair. In legislative elections on June 28, voters elected one-half of the members of the Chamber of Deputies representing all 24 provinces and one-third of those in the Senate representing eight provinces. Local observers considered these elections generally free and fair.

Political parties generally operated without restriction.

Decrees provide that one-third of the members of both houses of congress must be women, a goal achieved through balanced election slates. There were 27 women in the 72-seat Senate and 107 women in the 257-seat Chamber of Deputies. The president, two of the seven Supreme Court justices, and three cabinet ministers were women. Women constituted approximately 17 percent of top executive-branch positions at the federal level.

One indigenous person served in the Chamber of Deputies. There were no other known ethnic or racial minorities in the national legislature. There were no known indigenous, ethnic, or racial minorities in the cabinet or on the Supreme Court.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, there were frequent press reports that executive, legislative, and judicial officials engaged in corrupt practices, suggesting a failure to implement the law effectively.

According to the World Bank's worldwide governance indicators, corruption was a serious problem. Historically weak institutions and an often ineffective and politicized judicial system made rooting out corruption in any systemic fashion difficult.

Public officials are subject to financial disclosure laws, and the Ministry of Justice's Anti-Corruption Office (ACO) is responsible for analyzing and investigating federal executive branch officials based on their financial disclosure forms. The ACO also is responsible for investigating corruption within the federal executive branch or in matters involving federal funds, except for funds transferred to the provinces. As part of the executive branch, the ACO does not have authority to prosecute cases independently, but it can refer cases to other agencies or serve as the plaintiff and request a judge to initiate a case.

Facing at least 25 reported charges of corruption during his tenure as Secretary of Transportation, Ricardo Jaime resigned on July 1.

In November the government auctioned off the property of Maria Julia Alsogaray, a former government official convicted of illicit enrichment, to compensate the country for damages.

On December 12, the Criminal Court of Appeals upheld the indictment of former president Fernando de la Rúa on corruption charges related to bribes he allegedly offered national senators in 2000 for their votes of support on labor legislation. A former labor minister, four former senators, a parliamentary secretary, and the former chief of intelligence faced similar charges in connection with the case.

On December 15, the Supreme Court upheld the 2008 indictment of former president Carlos Menem on corruption charges related to his alleged involvement in the illegal sale of arms to Ecuador and Croatia while serving as president in the 1990s. As a senator, Menem enjoyed immunity from arrest.

Following the Mayor of Tartagal Sergio Leavy's impeachment in October under allegations that he mishandled federal money allocated for public works and humanitarian assistance to victims of February flood, in December the Salta Supreme Court suspended the City Council's impeachment decision pending the court's final decision on the case. Leavy was reinstated temporarily.

Several judicial investigations into alleged fraud committed by prosecutors and judges filling vacancies at the federal level continued. Some applicants reportedly negotiated with members of the examining board to receive answers to questions before taking the exam.

Investigations by Poder Ciudadano cited irregularities in some campaign finance reports filed after the midterm elections in June. Their findings concluded that some political parties underreported official campaign expenses, particularly regarding advertising costs. Poder Ciudadano also reported that some of the ruling party's candidates used public resources for the electoral campaign, including public funds for transportation and publicity, and coverage of electoral events on the state-owned channel. Poder Ciudadano noted a significant rise in government advertising as the country approached the elections.

An executive decree provides for public access to government information from executive agencies, which are required to answer requests for public information within 10 working days, with a possible 10-day extension.

In October without notice the government disabled a federal Web site which provided information on government agencies' work and accounting. Some NGOs alleged that the government removed the Web site for political reasons.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

While the government cooperated with some international and local NGOs, the local chapter of a well-known international organization expressed concern that, despite repeated requests, the government often delayed providing information under a freedom of information decree.

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations during the year.

The government has a Human Rights Secretariat and a National Ombudsman's Office.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these prohibitions in practice.

*Women.*—Rape, including spousal rape, is a crime, but evidentiary requirements, either in the form of clear physical injury or the testimony of a witness, often presented difficulties in prosecuting such crimes. The penalties for rape ranged up to 20 years' imprisonment. There were no reports of police or judicial reluctance to act on rape cases; however, women's rights advocates claimed that police, hospital, and court attitudes toward sexual violence victims often revictimized the individual.

The Rape Victims' Association reported more than 9,000 rape cases in Buenos Aires City and Buenos Aires Province during the year. Sixty percent of those cases involved victims under the age of 18. According to the Attorney General's Office, complaints were filed in three out of every ten cases, and one in three of these cases was prosecuted.

The law prohibits domestic violence, including spousal abuse, although the law defines violence against women as a misdemeanor, and complaints are addressed in civil rather than criminal courts. Family court judges have the right to bar a perpetrator from a victim's home or workplace. The law, however, prescribes penalties for domestic violence only when it involves crimes against sexual integrity, in which case the penalty can be as much as 20 years' imprisonment. However, lack of vigilance on the part of the police and the judicial system often led to a lack of protection for victims.

On March 11, Congress passed a law aimed at preventing, punishing, and eradicating violence against women. The law expands the legal definition of violence against women to include "any behavior, act, or omission that directly or indirectly, in the public or private sphere, based on an unequal relationship of power, affects the life, freedom, dignity, or physical, psychological, sexual or economic integrity or security of women." The new law does not prescribe penalties for violence against women but according to proponents, it provides a framework for complementary laws.

Domestic violence against women was a problem. In October Amnesty International reported that a woman died every three days as a result of domestic violence. In July the civil society organization La Casa del Encuentro reported that more than 82 women died from January to June as a result of domestic violence. According to the NGO Red Alto a la Trata y el Trafico, 204 women died during the year as a result of domestic violence.

The Office of Domestic Violence, which opened in September 2008, provided protection and resources to victims of domestic violence 24 hours a day, seven days a week. During the year the office hired additional staff members to handle the approximately 500 cases of domestic violence it received per month. An estimated 82 percent of adult domestic violence cases received by the office involved violence against women.

Family and civil courts in Buenos Aires Province, in compliance with a provincial Supreme Court order, created hotlines to receive complaints of domestic violence and assist victims after normal hours. Criminal courts worked with police stations,



police offices for women's issues, and prosecutors' offices to enable victims to file domestic violence complaints 24 hours a day.

The Ministry of Justice continued to operate mobile units to assist victims of sexual and domestic violence in the city of Buenos Aires. A free hotline servicing the city of Buenos Aires offered consultations and received complaints.

Public and private institutions offered prevention programs and provided support and treatment for abused women. The Buenos Aires municipal government operated a small shelter for battered women; however, few other shelters existed.

Prostitution by individuals over the age of 18 is legal, but the promotion, facilitation, or exploitation of persons into prostitution is illegal. NGOs considered sex tourism a problem but had no estimates of its extent. Trafficking of women to and within the country for prostitution was a problem.

Sexual harassment in the public sector is prohibited under laws that impose disciplinary or corrective measures. In some jurisdictions, such as the city of Buenos Aires, sexual harassment may lead to the abuser's dismissal, whereas in others, such as Santa Fe Province, the maximum penalty is five days in prison. There was no information on the extent of the problem.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Although women enjoyed equality under the law, including property rights, they encountered economic discrimination and held a disproportionately high number of lower-paying jobs. According to an Inter-American Development Bank report released in October, women earned 14.2 percent less than men of equivalent age and education.

The National Council of Women carried out programs to promote equal social, political, and economic opportunities for women. The council worked with the special representative for international women's issues, the Ministry of Labor, and union and business organizations to form the Tripartite Committee on Equal Opportunity for Men and Women in the Workplace, which sought to foster equal treatment and opportunities for men and women in the job market.

*Children.*—The country provided universal birth registration, and citizenship was derived both by birth within the country's territory and from one's parents.

Parents have 40 days within which to register births, and the state has an additional 20 days to do so. A February decree permits the Ministry of Interior to issue birth certificates to children under age 12 whose births have not been previously registered.

Child abuse was not uncommon; for example, a University of Buenos Aires study released in August 2008 noted that 56 kindergartens and primary schools in Buenos Aires Province had detected 1,590 cases of family violence in the previous year.

According to media sources, approximately 5,000 children were recruited every year for pornography and sex tourism. The minimum age of consensual sex is 18. There is a statutory rape law with penalties ranging from three to 10 years in jail for victims age 13 to 18, and 5 to 15 years in prison for minors under 13. Additionally, regardless of age, if a judge finds evidence of deception, violence, threats, abuse of authority, or any other form of intimidation or coercion, the sentence increases to 10 to 15 years in jail.

The law prohibits the production and distribution of child pornography with penalties ranging from six months' to four years' imprisonment. While the law does not prohibit the possession by individuals for personal use, it provides penalties ranging from four months' to two years' imprisonment for possession with the intent to distribute child pornography. Additionally, the law provides penalties ranging from one month's to three years' imprisonment for facilitating access to pornographic shows or materials to minors under the age of 14. During the year prosecutors and police pursued cases of Internet child pornography. On May 22, a Mendoza court sentenced an individual to two years in prison for distributing child pornography. This was the first child pornography conviction in Mendoza Province.

The NGO Fundacion Adoptar reported government reluctance to prosecute and convict child abuse cases. In August the NGO filed several claims regarding three producers of child pornography in the province of Tucuman. However, the organization alleged that only two of the suspected leaders were detained for 48 hours and then release. The third individual received a warning. Authorities dismissed charges against the three individuals. In August Fundacion Adoptar denounced the existence of 75 houses allegedly used in the sexual exploitation of children. The NGO went undercover and filmed some of the suspected houses which prompted authorities to raid 12 of them. No individuals were convicted following the raid.

According to credible local press reports, dozens of child victims of violence from poor families were lodged in juvenile detention centers under judicial protection orders. City government observers continued to be barred from visiting the centers.

The National Council for Children, Adolescents, and the Family continued to conduct public awareness campaigns and operated a national hotline, which children used to call for advice, make complaints, and report instances of abuse or other rights violations.

*Trafficking in Persons.*—A 2008 law criminalizes trafficking in persons for all purposes; however, there were several reports of persons trafficked to, from, through, and within the country.

Trafficking in persons primarily involved citizens trafficked within the country for the purposes of sexual and labor exploitation. Many were trafficked from rural to urban areas. Some women and girls were trafficked into Mexico, Western Europe, and neighbouring countries for sexual exploitation. The country was a destination for victims, principally women and minors from Paraguay, Brazil, Peru, and the Dominican Republic. A significant number of Bolivians, Paraguayans, and Peruvians were trafficked into the country for forced labor in sweatshops, agriculture, or domestic services. There were some reports suggesting that Chinese immigrants were trafficked into the country for labor exploitation in Chinese supermarkets.

While there were no official reports on the activities of traffickers, the media reported that traffickers often presented themselves as employment agencies or as individual recruiters. Credible sources also identified large organized crime networks, which sometimes consisted of extended families plus their business associates, including recruiters and brothel managers. Traffickers confiscated travel documents to prevent victims from appealing to authorities for protection. Victims, particularly women and girls in prostitution, at times were denied contact with the outside world. Victims often were threatened or beaten.

Penalties for trafficking range from three to 15 years in prison, depending on the nature of the violation and the age of the victim. Traffickers have been prosecuted on charges of prostitution through fraud, intimidation, and coercion or, in the case of minors, alien smuggling, indentured servitude, and similar abuses.

Trafficking investigations and arrests increased significantly during the year. According to Ministry of Justice statistics, internal security agencies conducted 254 raids, arrested 259 persons suspected of human trafficking, and rescued 421 victims, 83 of who were minors. On November 27, a court in Santa Fe Province sentenced a woman to 10 years' imprisonment in the country's first human trafficking conviction. Several cases were under investigation at year's end. The Ministry of Justice was the lead agency for coordinating antitrafficking efforts with internal security agencies.

There were no allegations of federal government official involvement in trafficking. However, there were reports of corruption and collusion with traffickers at provincial and local levels, which impeded prosecution. There were some efforts to investigate and prosecute local police and officials suspected of involvement in human trafficking.

On May 26, the Federal Court of Appeals in Buenos Aires Province ruled that consent by trafficking victims could not be deemed as valid when vulnerability was present.

On October 6, police discovered a sex trafficking network that had lured 20 indigenous women from Chaco Province to various locations in the country. The police arrested 12 network members, who were suspected of beating and forcing the victims into prostitution.

On August 11, Prosecutor General Esteban Righi approved a standardized protocol for the investigation of sex trafficking cases. The protocol provides guidelines for identifying sex trafficking cases throughout all stages: recruitment, transportation, receiving, lodging, and exploitation of victims.

On August 24, Prosecutor General Esteban Righi signed a resolution instructing federal prosecutors to seek the closure of brothels operating with a commercial license for licit activities. The prosecutor general urged the justice and interior to act so that provincial and municipal legislation complies with national and international legislation punishing the existence of "houses of tolerance" where sexual commercial exploitation is performed or encouraged. The prosecutor general also ordered prosecutors to continue investigations against officials that may have participated or covered up trafficking in persons crimes.

In May a judge referred the December 2008 case involving alleged police protection of brothels suspected of human trafficking in Buenos Aires to the national courts with ordinary jurisdiction. The judge did not consider the case to involve trafficking.

Trafficking victims normally were not detained, jailed, or deported. The Ministry of Justice's training seminars for internal security forces included a component emphasizing that they not blame trafficking victims for illegal activities they may have become involved in as a consequence of their exploitation.

Victims' assistance is provided by the Ministry of Justice's First Responder Office for the Rescue and Immediate Assistance of Trafficking Victims. It refers minor and adult victims rescued in the city or province of Buenos Aires to the Ministry of Social Development's Secretariat for Children, Adolescents, and the Family, which then may direct victims to existing social and medical assistance programs. Victims in other provinces usually were assisted by the relevant human rights secretariat. The Prosecutor General's Office of Victim's Assistance continued to provide assistance on an as-needed basis.

Although it did not operate victim shelters dedicated to trafficking, the government funded one NGO to operate a victims' shelter. Some victims qualified for federal government assistance, but most provincial officials were not trained to identify or help victims of trafficking specifically. During the year the federal government worked on outreach programs with provincial officials to help them identify and assist trafficking victims. The International Organization for Migration (IOM) assisted with repatriation and reintegration of foreign victims of trafficking.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The constitution and laws prohibit discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of other state services. A specific law also mandates access to buildings for persons with disabilities. However, critics questioned the efficacy of government enforcement of such laws.

Laws mandating greater access to buses and trains for persons with disabilities were not enforced fully. A March 2008 federal court ruling ordered the Buenos Aires subway operator Metrovias to make subway stations handicapped accessible. At year's end Metrovias was making four stations handicapped accessible.

According to INADI, an estimated 20,000 children with disabilities were unable to attend school in Buenos Aires City because the buildings were not handicapped accessible. In August the NGO Acceso Ya, represented by the Association for Civil Rights (ADC), filed a suit against the city government for failing to provide information on the accessibility of its schools and claiming that the buildings were handicapped accessible.

An estimated 82 percent of persons with disabilities lacked employment. Due to lengthy procedures for obtaining a certificate of disability, a key document to access services including rehabilitation, only 15 percent of unemployed persons with disabilities received a certificate of disability.

The National Advisory Committee for the Integration of People with Disabilities, under the National Council for Coordination of Social Policies, has formal responsibility for actions to accommodate persons with disabilities.

*National/Racial/Ethnic Minorities.*—A 2007 report by DAIA indicated that many Afro-Argentines experienced employment, education, and housing discrimination; endured racial slurs while using public transportation; and were barred entry from nightclubs. The DAIA report also noted that Chinese, Koreans, Muslims, Roma, and immigrants from other Latin American countries also faced discrimination.

INADI continued a number of national public awareness campaigns throughout the year to discourage racial discrimination, including one entitled "Words Discriminate."

*Indigenous People.*—The constitution recognizes the ethnic and cultural identities of indigenous people and states that the 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. In practice indigenous people did not fully participate in the management of their lands or natural resources, in part because responsibility for implementing the law is delegated to the 23 provinces, only 11 of which have constitutions recognizing indigenous rights.

Although there is no formal process to recognize indigenous tribes or determine who is an indigenous person, indigenous communities can register with the provincial or federal government as civic associations.

Estimates of the indigenous population ranged from 700,000 to 1.5 million. Poverty rates were higher than average in areas with large indigenous populations. Indigenous people had greater than average rates of illiteracy, chronic disease, and unemployment. The lack of trained teachers hampered government efforts to offer bilingual education opportunities to indigenous people.

Deforestation in the Salta Province continued in violation of the December 2008 Supreme Court ruling which ordered the Salta governor to suspend clearing of forested areas pending completion of a study on the environmental impact of deforestation on indigenous persons living in the area.

On October 12, a landowner accompanied by two former policemen killed one indigenous person and injured three others in the town of El Chorro, Trancas, during a forced eviction. Authorities arrested the landowner and one of the former policemen in October. They remained in pretrial detention at year's end.

The land dispute between the Mbya Guarani community and La Plata National University over 6,500 hectares of land in Misiones Province continued.

The Inter-American Commission on Human Rights (IACHR) continued to evaluate a petition presented by the Lhaka Honhat indigenous association regarding the national government's failure to implement a titling policy that would return their traditional land. The Lhaka Honhat association sent a letter to the IACHR in September 2008 asking for greater involvement and a timely resolution to the case.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Nine provinces have laws that either criminalize transgender behavior or single out homosexual activity when referring to prostitution; however, INADI reported that these laws were rarely enforced.

During the year INADI received 321 complaints of discrimination on the basis of sexual orientation or gender identity.

Lesbian, gay, bisexual, and transgender organizations operated freely. They worked closely with academic institutions, NGOs, and government authorities without interference.

Numerous gay pride marches occurred throughout the country and received government authorization. Police provided protection to participants.

On April 10, an individual was reportedly beaten for his transgender identity in La Matanza, Buenos Aires Province. According to the NGO The International Gay and Lesbian Human Rights Commission, the attorney general and INADI had not responded to his complaint by year's end.

In November and December, Sergio Alfredo Nunez and Silvio Elias Soria went to trial for their alleged role in the 2006 killing of transgender activist Pelusa Liendro. The decisions were pending at year's end.

There was no official or overt societal discrimination based on sexual orientation in employment, housing, statelessness, or access to education or healthcare.

*Other Societal Discrimination.*—There were no known reports of societal violence against persons with HIV/AIDS and occasional reports of discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides all workers, with the exception of military and law enforcement personnel, the right to form and join "free and democratic labor unions, recognized by inscription in a special register," and workers exercised this right. An estimated 35 to 40 percent of the workforce was organized.

The Argentine Workers Central (CTA) and other labor groups not affiliated with the General Confederation of Labor continued to contend that the Trade Unions Law provision for the legal recognition of only one union per sector conflicts with the International Labor Organization's (ILO) Convention 87 and prevents the CTA from obtaining full legal standing. Despite a December ruling by the Supreme Court upholding the right of a workers' union lacking official legal recognition to elect its own delegates, the executive branch had not granted legal recognition to the CTA at year's end. The IACHR continued to review the CTA's 2004 petition at year's end.

Unions have the right to strike, although those representing civil servants and workers in essential services are subject to the condition that undefined "minimum services" are rendered. In some cases "minimum services" have already been incorporated in union bargaining agreements, but since the law does not define "minimum services," civil servants and workers in essential services have the right to strike only after a compulsory 15-day conciliation process. Once that term expires, civil servants and workers in essential services must give five days' notice to the administrative authority and the public agency that they intend to strike. All parties then negotiate which minimum services will continue to be provided and a schedule for their provision. The public agency, in turn, must provide two days' notice to users about the intended strike. Other workers exercised the right to strike by conducting legal strikes.

*b. The Right to Organize and Bargain Collectively.*—The law provides recognized unions with the right to negotiate collective bargaining agreements and to have recourse to conciliation and arbitration. During the year an increasing number of shop

stewards were elected by their colleagues but did not report to officially recognized unions, which impaired the ability and willingness of official unions to negotiate. The Ministry of Labor, Employment, and Social Security ratifies collective bargaining agreements, which covered approximately 75 percent of the formally employed workforce. According to the ILO, the ratification process impeded free collective bargaining because the ministry considered not only whether a collective labor agreement contained clauses violating public order standards but also whether the agreement complied with productivity, investment, technology, and vocational training criteria. However, there were no known cases during the year of government refusal to approve any collective agreements under these criteria.

There are no special laws or exemptions from regular labor laws in the three functioning export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—While the law prohibits forced or compulsory labor, there were reports that such practices occurred.

Through December the IOM assisted 89 victims and 23 minor dependents from Bolivia, Peru, Colombia, Brazil, and the Dominican Republic, most of whom were exploited in sweatshops. Victims of labor exploitation also included 18 persons working in fruit and vegetable stores, nine in domestic services, five in street vending, and nine in other activities.

In July the National Industrial Technology Institute (INTI) launched the Apparel Demonstrative Center, which provided garment work for individuals previously employed in clandestine textile workshops under conditions of forced labor. The government supplied the center with machinery seized from the workshops. During the year approximately 130 seamstresses worked at the center. In September the courts donated an additional 250 sewing machines seized in a 2007 raid to INTI in compliance with a ruling from a September 2008 case.

The April 2008 case of 30 Bolivians working in exploitative conditions at a poultry farm in Buenos Aires Province had not gone to trial at year's end. Press reports indicated the company had not paid the fine by year's end. The Ministry of Labor was reviewing additional forced labor complaints, including two deaths, lodged against the company.

There were no developments in the September 2008 case of a garment sweatshop manager employing 20 Bolivian minors.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—While the law protects children from exploitation in the workplace, child labor persisted. A 2004 government survey revealed that an estimated 450,000 children were working, or 7 percent of children age five to 13 and 20 percent of children over age 14.

The minimum age for employment is 15. In rare cases the Ministry of Education may authorize a younger child to work as part of a family unit. Children between the ages of 15 and 18 may work in a limited number of job categories and for limited hours if they have completed compulsory schooling, which normally ends at age 18. Legal penalties for employing underage workers ranged from 1,000 to 5,000 pesos (\$269 to \$1,344) for each child employed. Provincial governments and the city government of Buenos Aires are responsible for labor law enforcement.

In rural areas, children worked in family and third-party farms producing such goods as tobacco, cotton and grapes. Children working in the agriculture sector often handled pesticides without proper protection. In urban areas, some children engaged in domestic service and worked on the street selling goods, shining shoes, and recycling trash. According to government sources, some children worked in the manufacturing sector producing such goods as bricks, matches, fireworks, and garments. Children were also found working in the mining, fishing, and construction sectors.

The National Commission for the Eradication of Child Labor conducted seminars with the 19 provincial commissions for the eradication of child labor to train provincial authorities responsible for enforcing labor laws and raising awareness regarding exploitive child labor. It also provided technical assistance to NGOs addressing child labor in the tobacco and trash-picking sectors, including workshops with tobacco producers to encourage corporate social responsibility on child labor issues. The government worked with several NGOs to address the commercial sexual exploitation of children in the triborder area with Brazil and Paraguay, disseminating information on prevention and available assistance for victims.

*e. Acceptable Conditions of Work.*—The government increased the monthly minimum wage in October, bringing the total monthly minimum wage to 1,440 pesos (\$387). This exceeded the estimated amount of 1,013 (\$272) a month needed by a family of four to maintain a "decent" standard of living. Most workers in the formal sector earned significantly more than the minimum wage. The Ministry of Labor, which is responsible for enforcing legislation related to working conditions, continued inspections to get companies to register their informal workers. In November

the Ministry of Labor reported informal urban unemployment at 40 percent. According to a 2007 ILO study, 60 percent of employed citizens ages 15 to 24 were engaged in informal labor.

Federal labor law sets standards in the areas of health, safety, and hours. The maximum workday is eight hours, and the maximum workweek is 48 hours. Overtime pay is required for hours worked in excess of these limits. The law sets minimums for periods of rest, requiring a minimum of 12 hours of rest to start a new workday. Sundays are holidays, and those required to work on Sundays are paid double. However, laws governing acceptable conditions of work were not enforced universally, particularly for workers in the informal sector.

The law requires employers to ensure their employees against accidents at the workplace and when traveling to and from work. Workers have the right to remove themselves from dangerous or unhealthy work situations without jeopardy to continued employment. However, workers who leave the workplace before it has been proven unsafe risk being fired; in such cases the worker has the right to judicial appeal, but the process can be very lengthy.

## THE BAHAMAS

The Commonwealth of The Bahamas is a constitutional, parliamentary democracy with a population of approximately 342,400, including an estimated 30,000 undocumented Haitians. Prime Minister Hubert Ingraham's Free National Movement (FNM) regained control of the government in May 2007 elections that observers found to be generally free and fair. The civilian authorities generally maintained effective control over security forces.

The government generally respected the human rights of its citizens. There were problems in some areas, including complaints of abuse by police and prison and detention center guards; poor detention conditions; a poorly functioning judicial system, leading to delays in trials and lengthy pretrial detention; violence against women and children; and discrimination against persons of Haitian descent.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, there were killings by police in the performance of their duties. Police investigated such incidents and referred them to a coroner's court when necessary for further evaluation.

On March 5, police shot a Nassau man in disputed circumstances. The victim later died, and the case was under investigation at year's end.

In June a coroner's jury delivered a verdict of accidental death in the 2007 police killing of a resident of Andros Island.

The coroner's court received the case of the 2007 police killing of two armed men who failed to stop when fleeing the scene of a crime. An investigation continued into another 2007 incident involving an individual killed by police at Rand Memorial Hospital on Grand Bahama.

At year's end a magistrate's court was hearing the case against the police officer who shot and killed a man on Bimini Island in 2007.

Although a coroner's court recommended manslaughter charges against prison guard Sandy Mackey, who allegedly killed an inmate in 2006, Mackey died before he could be charged, and the matter was closed.

The coroner's court continued to face a heavy backlog. In 2008 the coroner's court had a backlog of more than 150 cases, including six police shootings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, but human rights monitors and members of the public expressed concern over continued instances of police abuse of criminal suspects. Police officials, while denying systematic or chronic abuses, acknowledged that police on occasion abused their authority.

In May a 15-year-old boy allegedly hanged himself in a holding cell while in police custody, according to media reports. A police autopsy was performed in June that determined hanging was the cause of death. The family alleged foul play, and after public pressure to revisit the case, a coroner's inquest began in November. The doctor who performed the autopsy testified that the boy's injuries were "consistent with a hanging" and "inconsistent with a beating." The family alleged that the hanging was a cover-up for a beating. The inquest continued at year's end.

In August authorities opened an investigation in the case of police officer Dwight Williamson, accused of raping a 15-year-old girl at the police station on August 11. Police escorted Williamson to a magistrate's court on October 1 to be arraigned.

On December 8, a judge heard the case of police constable Daniel Paul Smith, alleged to have had nonconsensual sex with a 19-year-old girl while on duty on September 28. Charged with rape, authorities suspended him, placed him on half-pay, and required him to report to the police weekly.

In November a magistrate sent to the hospital a man charged with serial rape after he showed the judge welts on his torso and alleged police brutality. He claimed that he had been beaten by detectives into signing a statement; the resulting medical report was placed in his court file.

Amnesty International (AI) reported that Emmanuel McKenzie, chairman of an environmental organization, was harassed and assaulted by police and defense forces during a fundraising event in April 2008. AI stated that no investigation was initiated.

There were other allegations of police beatings and brutality throughout the year. Victim's families and community activists claimed that many officers had their cases thrown out of court or dropped by the Attorney General's Office. In addition many officers waited years for their court date, only to return to work without having their names cleared.

On December 3, a magistrate ruled that the prosecution had established a prima facie case against police officer Vaughn Pratt, arrested in 2007 and accused of having sex with two minors. The prosecution closed its case on June 23; the police suspended Pratt pending the outcome of the trial.

Authorities brought charges against two officers in connection with the 2007 beating of a suspect, Desmond Key. The officers were released on bail; after an investigation, authorities charged both officers with causing grievous harm. When Key died, the charges were upgraded to manslaughter, and the case was before a magistrate's court at year's end.

On June 12, authorities closed without prosecution a case involving a foreign journalist allegedly beaten by Defense Force guards at the Immigration Detention Center in 2006.

On July 1, a court acquitted the seven defense force members charged with beating a man on the island of Inagua in 2006.

The Privy Council in the United Kingdom upheld the government's use of flogging as a punishment.

*Prison and Detention Center Conditions.*—Conditions at Fox Hill Prison, the country's only prison, remained harsh for many prisoners. Overcrowding was a major problem in the men's maximum-security block. Originally built in 1953 to hold 450 inmates, it held 624 of the country's 1,319 prisoners. The remaining prisoners were held in medium- and minimum-security units that were at intended capacity. A remand center held 265 detainees. Male prisoners in the maximum-security unit were crowded into poorly ventilated and poorly lit cells that generally lacked regular running water. Prisoners lacked beds, slept on concrete floors, and if not participating in work programs were locked in small cells. Maximum-security inmates were allowed outside for exercise four days a week for one hour per day. Inmates complained of inadequate potable water, lack of medical care, and poor treatment.

During the year authorities installed toilets in cells, added a medical facility and exercise yard within the remand facility, as well as a well-equipped health diagnostic unit and a pharmacy. They also created a classroom within the maximum-security facility to provide educational programs to high-risk offenders who could not attend classes within the correctional training institute. That facility had water treatment units installed and the dental unit renovated and refurbished.

There continued to be allegations of abuse by prison guards. Local attorneys and human rights observers asserted that the prison's internal affairs unit lacked the independence needed to investigate impartially allegations of abuse and misconduct; it conducted no investigations during the year.

Conditions for female prisoners were less severe than for men; however, women did not have access to the same work-release programs available to male prisoners.

The prison has a separate section for juvenile offenders between the ages of 16 and 18. There was occasional mixing of juveniles with adult inmates depending on the severity of their crimes. Offenders younger than 16, along with children made wards of the court by their parents because of "uncontrollable behavior," were held at the Simpson Penn Center for Boys and the Williamae Pratt Center for Girls.

The Carmichael Road Immigrant Detention Center held up to 500 detainees (with tent space for an additional 500), and women and men were held separately. Haitians and Jamaicans were the most commonly interdicted migrants. The highest occupancy during the year was approximately 664. Observers complained of con-

tinuing abuse by guards, although immigration officials stated that no such complaints were filed during the year. Human rights groups expressed concern that complaint investigations were handled internally without independent review and oversight. Children under the age of 14 were held in the women's dormitory. Many children arriving with both parents were not allowed contact with the father except during weekly visitation. Despite the possibility of being held for months, children did not have access to education.

The government made improvements to the Carmichael Road center during the year, including benches for seating and recreation, cable television, bunk mattresses, fans, and 100 roll-away mattresses for overflow. Two nurses conducted medical screening of detainees on a weekly basis; authorities issued care packages upon entry into the facility and installed a washer and dryer and additional pay phones for detainee use.

AI as well as local media wrote and released reports throughout the year alleging systemic abuse of detainees at the Carmichael Road center. In February the media reported that three Cuban detainees went on a hunger strike to protest conditions at the center. In an expansive interview with a local daily newspaper in June, an anonymous former officer at the center alleged widespread abuse of detainees that included killings. Media reports also claimed that detainees exchanged sex for food due to insufficient rations.

Neither domestic nor international human rights groups made any requests to visit the detention center or prison during the year. However, organizations providing aid, counseling services, and religious instruction had regular access to inmates.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions, although police occasionally were accused of arresting and detaining persons arbitrarily.

*Role of the Police and Security Apparatus.*—The Royal Bahamas Police Force (RBPf) maintains internal security, and the small Royal Bahamas Defense Force (RBDF) is responsible for external security, security at the Carmichael Road Detention Center, and some minor domestic security functions such as guarding foreign embassies and ambassadors. The Ministry of National Security oversees the RBPf and the RBDF.

A police officer involved in shooting or killing a suspect is automatically placed under investigation. The Police Complaints and Corruption Branch, which reports directly to the deputy commissioner without any independent oversight, was responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant disciplinary action within the police system or, in some cases, criminal prosecution by the attorney general. Some local attorneys and human rights observers expressed concern that the Police Complaints and Corruption Branch lacked the independence needed to investigate impartially allegations of abuse and misconduct and that the perceived lack of impartiality discouraged full reporting of complaints.

The complaints commission began an investigation after a police officer was accused of savagely beating his girlfriend in May. The police commissioner said that criminal charges and disciplinary action would be considered at the conclusion of the investigation. In June authorities arraigned four police officers on armed robbery and extortion charges, two of whom pleaded not guilty to the extortion charges; the other two were not required to enter a plea to the armed robbery charges. Authorities remanded the two alleged armed robbers to the Central Police Station, released the two alleged extortionists on bail, and ordered them back to court at a future date. In early November authorities arrested two police officers for an unauthorized raid on a bar but kept them on active duty while deciding whether to discipline them. If they are disciplined, they could face a court martial or a criminal trial.

There were 257 complaints against police through October, compared with 300 in 2008. Of these cases, 55 were sub judice, and 202 were under active investigation at year's end. Authorities resolved 184 cases, recommended 44 to the Police Court of Inquiry, found 46 to have insufficient evidence, ruled 37 cases unsubstantiated, found 8 cases required no further action, informally resolved 15 cases, dropped five cases as unfounded, executed one warning, made one recommendation for counseling and one reprimand, and dropped one case because the officer died. Complainants withdrew 25 cases. The overwhelming number of complaints involved allegations of assault, followed by unethical behavior, unlawful arrest, stealing, missing property, damage, unnecessary violence, threats of harm, causing harm, neglect, unlawful sexual intercourse, indecent assault, and threats of death.



*Arrest Procedures and Treatment While in Detention.*—In general the authorities conducted arrests openly and, when required, obtained judicially issued warrants. Serious cases, including those of suspected narcotics or firearms offenses, do not require warrants where probable cause exists. The law provides that a suspect must be charged within 48 hours of arrest. 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. Police can apply for a 48-hour extension upon simple request to the court and for longer extensions with sufficient showing of need. Some persons on remand claimed they were not brought before a magistrate within the 48-hour time frame. The government generally respected the right to a judicial determination of the legality of arrests. The constitution provides the right for those arrested or detained to retain an attorney at their own expense; volunteer legal aides were sometimes available. Minors under the age of 18 have the right to communicate with a parent or guardian.

There is a functioning bail system. Judges sometimes authorized cash bail for foreigners arrested on minor charges; however, in practice foreign suspects generally preferred to plead guilty and pay a fine rather than pursue their right to defend themselves, given possible delays in court cases and harsh conditions in the prison.

Attorneys and other prisoner advocates continued to complain of excessive pretrial detention due to the failure of the criminal justice system to try even the most serious cases in a timely manner. The constitution provides that suspects can be held for a “reasonable period of time” before trial. Government officials stated that approximately 581 of the 1,319 prisoners at Fox Hill Prison were awaiting trial. Available government statistics suggested that approximately 100 prisoners had been held on remand without trial for more than two years. This was recognized as a major problem in the justice system, as criminals accused of serious crimes made bail, while many others were held indefinitely without trial. The minister also stated in 2008 that more than one-third of those charged with murder during the previous 30 months were free on bail for a previous murder indictment.

The authorities detained illegal immigrants, primarily Haitians, until arrangements could be made for them to leave the country or they obtained legal status. The average length of detention varied significantly by nationality, willingness of governments to accept their nationals back in a timely manner, and availability of funds to pay for repatriation. Haitians usually were repatriated within one week, while Cubans were held for much longer periods. Illegal immigrants convicted of crimes other than immigration violations were held at Fox Hill Prison, where they often remained for weeks or months after serving their sentences, pending deportation.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Magistrate’s courts are the lowest level courts and handle only crimes with a maximum sentence of five years’ imprisonment. Trial by jury is available only in the Supreme Court, which handles most major cases. Magistrate’s court decisions may be appealed to the Judicial Committee of the Privy Council in the United Kingdom, which is the final court of appeal.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence until proven guilty and are permitted to question witnesses at trial and view government evidence. Defendants have a right to appeal. There is a functioning bail system, but individuals who could not post bail were held on remand indefinitely. Defendants can elect to use a jury in criminal cases; serious offenses such as murder and fraud automatically go to a jury.

The judicial system had a large and steadily expanding backlog of cases, numbering as high as 8,700 in 2008, which included hundreds of cases of the most serious violent crime. In July 2008 the newly appointed attorney general ordered an audit to determine the actual scope of the problem. Delays reportedly lasted five years or more. Local legal professionals attributed delays to a variety of longstanding systemic problems, such as slow police investigation, inefficient prosecution strategies, lack of judicial capacity, lengthy legal procedures, staff shortages, and judicial inefficiency compounded by financial and space constraints. According to media reports, the attorney general decided to drop some old criminal cases in which the evidence supporting the charges was either not substantive or so degraded that a conviction would be unlikely, to allow his prosecutors to focus on the most pressing cases.

Defendants may hire an attorney of their choice, but the government provided legal representation only to destitute suspects charged with capital crimes, leaving large numbers of defendants without adequate legal representation. Lack of rep-

resentation contributed to excessive pretrial detention, as some accused lacked the means to pursue the case toward trial.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, and there is access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

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

While the law usually requires a court order for entry into or search of a private residence, a police inspector or more senior police official may authorize a search without a court order where probable cause to suspect a weapons violation or drug possession exists.

In November arguments concluded in the Court of Appeals over the constitutionality of the Listening Devices Act, but no ruling was made before year's end.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. The independent media were active and expressed a wide variety of views without significant restriction.

*Internet Freedom.*—The government did not impose restrictions on public access to the Internet. There were no reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the International Telecommunication Union, there were 32 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events. However, the Plays and Films Control Board rates and censors entertainment.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution explicitly calls for respect for Christian values.

The practice of Obeah, a version of voodoo, is illegal, and those convicted of practicing it were liable to three months' imprisonment.

*Societal Abuses and Discrimination.*—There were no reports of societal violence or discrimination and no reports of anti-Semitic acts. The local Jewish community numbered approximately 200 persons.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits forced exile, and the government did not use it.

*Protection of Refugees.*—Although the country is a signatory to both the 1951 Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a consistent system for providing protection to all refugees and asylum seekers. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. Applications for political asylum were adjudicated on a case-by-case basis at the cabinet level. The authorities did not grant asylum during the year.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government suspended the practice of systematically sharing its prescreening notes with the UNHCR but did seek UNHCR advice on specific cases of concern.

In April the government denied political asylum to Haitian national Anderson Pierre, stating he did not qualify for refugee status under the 1951 convention. Assassilants killed Pierre upon his return to Haiti. He had served as a bodyguard and

driver for a commissioner in the Aristide government, and his wife claimed they fled Haiti after several attempts on their lives.

Local and international human rights observers criticized the government for failing to screen potential asylum applicants adequately. Those requesting asylum screening often lacked access to legal counsel. Human rights observers claimed that the government detained Cuban migrants for excessive periods. The government asserted that all migrants who claimed asylum were interviewed and screened adequately by trained immigration officials.

*Stateless Persons.*—The government has not effectively implemented laws and policies to provide certain habitual residents the opportunity to gain nationality in a timely manner and on a nondiscriminatory basis. Children born to non-Bahamian parents or to a Bahamian mother and a non-Bahamian father born outside of the Bahamas do not automatically acquire citizenship. Bahamian-born persons of foreign heritage must apply for citizenship during the year after their 18th birthday, sometimes waiting many years for a government response. The narrow window for application, difficult documentary requirements, and long waiting times created generations of de facto stateless persons. Individuals born in the country to Haitian parents were not required to pay the college tuition rate for foreign students while waiting for their request for citizenship to be processed. There were no reliable estimates of the number of stateless persons.

In November 2008 the Immigration Department announced the initial results of an audit of approximately 2,000 outstanding residence and citizenship claims conducted in 2007. The audit found that 86 persons, including 47 Haitians, were approved, 22 applications were denied, and more than 700 cases remained pending. However, the remaining claims, more than half the total, remained in different procedural categories or were regarded as incomplete.

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

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

*Elections and Political Participation.*—The two principal political parties are the governing FNM and the opposition Progressive Liberal Party (PLP). In May 2007 national elections generally considered free and fair, the FNM won 23 of 41 seats in the House of Assembly and formed the new government under Hubert Ingraham. The election campaign under the incumbent PLP, however, was marred by instances of violence, alleged favoritism by the influential state-owned electronic media toward government candidates, and allegations of vote-buying.

The PLP lost the elections and unsuccessfully pursued court cases challenging the election results in three constituencies.

The House of Assembly had five elected female members; there were five appointed female senators, including its president, in the 14-seat Senate. There was one woman in the cabinet.

Information on racial background was not collected, but there were several members of minorities in prominent positions in parliament and the cabinet.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

Both political parties were subject to corruption allegations concerning the inappropriate transfer of government-owned land. The opposition party also charged the FNM government with corruption in relation to a controversial relocation of the container port. In July authorities suspended 16 customs officials over allegations that included falsifying documents, bribery, stealing, and evasion of customs duties. Police investigations into government contract corruption in the wake of 2004 hurricanes Frances and Jeanne continued at year's end.

In January authorities charged a former PLP senator with conspiracy and abetting an alleged extortion attempt. At year's end she faced retrial on September 6, 2010. In July authorities investigated a former PLP treasurer who was indicted on money laundering charges in a foreign jurisdiction.

Senior public officials, such as senators and members of parliament, were subject to financial disclosure under the Public Disclosure Act. Antibribery legislation designates the attorney general responsible for combating government corruption.

The RBPF operated a complaints and corruption branch, which received 11 corruption reports during the year: it sent one to the police tribunal, found that one

was unsubstantiated, recommended criminal charges in one case, and had eight cases under investigation at year's end.

Media representatives criticized the lack of laws providing for public access to government information. Members of the local press also complained that the government failed to provide regular, open access to information, including information regarding alleged human rights violations. Specifically, press and local human rights groups complained that the government was not forthcoming about alleged human rights abuses by police and prison and detention center guards, citing a lack of transparency in investigations and publication of investigative reports.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

The Data Protection Act of 2003 created a "commissioner" with ombudsman-like duties.

The government generally cooperated with international governmental organizations.

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

The constitution prohibits discrimination on the basis of race, place of origin, political opinion, or creed, and the government generally enforced these prohibitions. However, the constitution and the law contain provisions that discriminate against women.

The country is made up of 700 islands and cays, 30 of which are inhabited. Information reflects the situation in the highly populated areas on New Providence and Grand Bahama. Limited information was available from the lesser populated out-islands.

*Women.*—Rape is illegal, but the law does not address spousal rape, except if the couple is separating, in the process of divorce, or if there is a restraining order in place. The maximum penalty for all offenses, including a first-time offense, is life imprisonment. According to the RBPF, there were 90 rapes reported by October, a decrease from 114 reported in 2008. Prosecutions and convictions on rape charges were common.

Violence against women continued to be a serious, widespread problem. The law prohibits domestic violence as a crime separate from assault and battery, and the government generally enforced the law. The police reported that seven of 87 killings recorded through December were related to domestic violence. Women's rights groups cited a general reluctance on the part of law enforcement authorities to intervene in domestic disputes. The police recognized domestic violence as a high priority, provided specialized training for all incoming officers, and offered continuing training in domestic violence.

The government operated a toll-free hotline in New Providence and Grand Bahama, with trained volunteers to respond to emergency calls 24 hours a day. Government and private women's organizations continued public awareness campaigns highlighting the problems of abuse and domestic violence. The Ministry of Labor and Social Development's Department of Social Services, in partnership with a private organization, operated a safe house to assist battered women. The ministry's Bureau of Women's Affairs was responsible for promoting and protecting women's rights.

Prostitution is illegal and was not a widespread problem. There are no laws specifically addressing sex tourism. Police officials acknowledged that sex entertainment was a developing industry but did not consider sex tourism a problem.

The law prohibits criminal "quid pro quo" sexual harassment and authorizes penalties of up to B\$5,000 (\$5,000) and a maximum of two years' imprisonment. Civil rights advocates complained that criminal prohibitions were not enforced effectively and that civil remedies, including a prohibition on "hostile environment" sexual harassment, were needed.

Couples and individuals generally could decide freely and responsibly the number, spacing, and timing of their children, and were not subject to discrimination, coercion, or violence regarding these choices. Access to family planning was universally available to persons age 18 and older and to younger persons with the consent of an adult. Pregnant teens were removed from government educational institutions and placed in a special school, Providing Access to Continued Education, until after the birth of their children. Women had access to maternal health services. According to UN data, skilled personnel attended 99 percent of births, and 98 percent of moth-

ers received prenatal and postpartum care. Services were available on a nondiscriminatory basis, although some illegal immigrants did not receive postpartum care because they had no fixed address.

The law does not provide women with the same right as men to transmit citizenship to their foreign-born spouses. The law also makes it easier for men with foreign spouses than for women with foreign spouses to confer citizenship on their children. The law does not include gender as a basis for protection from discrimination. Women were generally free of economic discrimination, and the law provides for equal pay for equal work.

*Children.*—Children born to non-Bahamian parents or to a Bahamian mother and a non-Bahamian father born outside of the Bahamas do not automatically acquire citizenship. Otherwise, citizenship is acquired by birth in the country. There is universal birth registration; all births must be registered within 21 days of delivery. All residents, regardless of immigration status, had free access to education and social programs.

Both the government and civic organizations conducted public education programs aimed at child abuse and appropriate parenting behavior; however, child abuse and neglect remained serious problems. The RBPF operated a hotline regarding missing or exploited children. The Child Protection Act of 2007 included increased penalties for child abuse, mandatory reporting to police of all forms of child abuse, a provision for fathers of children born out of wedlock to pursue custody of the children, and a provision for mothers of children born out of wedlock to pursue maintenance of those children up to age 18.

The Department of Social Services reported that cases of child abuse increased during the year, and in some categories surpassed previous year's totals. From January through August, 355 child abuse cases were reported, while neglect cases for the same period were down slightly from 2008 to 217. The ministry believed that only a minority of cases were reported.

The law prohibits statutory rape of persons under the age of 16; victims between the ages of 14 and 16 carry penalties of up to 14 years' imprisonment, with harsher penalties involving persons under age 14. While a victim's consent is insufficient defense against allegations of statutory rape, it is sufficient defense if an individual can demonstrate that the accused had "reasonable cause to believe that the victim was above 16 years of age," provided the accused was under age 18.

Child pornography is against the law. A person who produces it is liable to life imprisonment; dissemination or possession of it calls for a penalty of 20 years' imprisonment.

The law requires all persons having contact with a child they believe to have been physically or sexually abused to report their suspicions to the police. Sexual exploitation of children through incestuous relationships occurred, and anecdotal reports suggested that this was a particular problem in the out-islands. Observers generally acknowledged that a small number of children were involved in illicit or unlawful activities. The ministry may remove children from abusive situations if the court deems it necessary. The ministry provided services to abused and neglected children through a public-private center for children, through the public hospital family violence program, and through a nonprofit crisis center.

The Department of Social Services is responsible for abandoned children up to 18 years of age but had very limited resources at its disposal. The government found foster homes for some children, and the government hospital housed abandoned children with physical disabilities when foster homes could not be found.

*Trafficking in Persons.*—In December 2008 parliament enacted legislation specifically addressing trafficking in persons for the first time. The law also prohibits prostitution and the procurement of persons for purposes of prostitution either in or outside the country by force, threats, intimidation, or the administering of drugs. The maximum penalty for trafficking in persons is life imprisonment.

There were reports that persons were trafficked within, to, or from the country, but the full nature and extent of the problem were undetermined. The previous lack of a legal prohibition rendered it difficult to measure accurately the extent of trafficking within the vulnerable illegal migrant communities. It was too early to assess the impact of the new legislation and how it would be implemented and enforced to prosecute perpetrators, protect and assist victims, and prevent trafficking. According to limited reports, men, women, and children may be trafficked for the purpose of labor exploitation.

Local observers previously complained that the law does not protect trafficking victims, who might be fearful of pressing complaints due to emphasis on immigration enforcement. The new legislation details provisions for assistance and protection for victims, including witness protection and special immigration procedures for

nonresidents to facilitate investigation and prosecution. The Foreign Ministry and the Women's Affairs Bureau have the lead on antitrafficking efforts, and the International Organization for Migration (IOM) met with an interagency committee that included various NGOs that work on assistance issues.

In November the IOM conducted antitrafficking training for government personnel in New Providence and Grand Bahama. Various law enforcement officers, social workers, and NGOs participated. Training included train-the-trainer components, sensitization, awareness, indicators, and referral as well as a discussion of the new law and jurisdiction of the various agencies involved.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—There is no specific law protecting persons with physical or mental disabilities from discrimination in employment, education, access to health care, or in the provision of other state services. However, provisions in other legislation address the rights of persons with disabilities, including a prohibition of discrimination on the basis of disability. Although the law mandates access for persons with physical disabilities in new public buildings, the authorities rarely enforced this requirement, and very few buildings and public facilities were accessible to persons with disabilities. Advocates for persons with disabilities complained of widespread job discrimination and general apathy on the part of private employers and political leaders toward the need for training and equal opportunity.

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

*National/Racial/Ethnic Minorities.*—The country's racial and ethnic groups generally coexisted in a climate of peace and mutual respect without overt racial or other tensions. However, anti-Haitian prejudice and resentment regarding continued Haitian immigration was common. According to unofficial estimates, between 10 and 25 percent of the population were Haitians or persons of Haitian descent, making them the largest ethnic minority. Many persons of Haitian origin lived in shantytowns with limited sewage and garbage services, law enforcement, or other infrastructure. Haitian children generally were granted access to education and social services, but interethnic tensions and inequities persisted. The Haitian community was characterized by high poverty, high unemployment, poor educational achievement, and poor health conditions. Haitians generally had difficulty in securing citizenship, residence, or work permits.

Lawyers for an illegal Haitian resident in Nassau, whom an RBDF officer shot and injured in 2007, continued their civil suit seeking damages against the officer, the commander of the RBDF, and the attorney general for false arrest, false imprisonment, assault and battery, and malicious prosecution, even though the man was subsequently deported.

Members of the Haitian community complained of discrimination in the job market, specifically that identity and work permit documents were controlled by employers seeking leverage by threat of deportation. Some also complained of tactics used by immigration officials in raids of Haitian or suspected Haitian communities. The economic recession led to an increase in resentment against the Haitian population and a tendency to blame Haitians for rising crime rates.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Societal discrimination against gays and lesbians occurred, with some persons reporting job and housing discrimination based upon sexual orientation. Although homosexual activities between consenting adults are legal, there was no legislation to address the human rights concerns of gays, lesbians, bisexuals, or transgendered persons. The 2006 Constitutional Review Commission found that sexual orientation did not deserve protection against discrimination.

Authorities brought charges in one of three killings of reportedly gay individuals in 2008, but the jury could not reach a verdict in the case of Troyniko McNeil (alleged to have murdered handbag designer Harl Taylor). A retrial was set for July 12, 2010, and he was released on B\$30,000 (\$30,000) bail. There were no new developments in the investigations into the other killings by year's end.

One 16-year-old male rape victim alleged that investigators treated his case poorly because he was gay. He claimed that he had to wait hours to report his case or be seen by a medical examiner, and that the investigating authorities treated the

case as a “joke.” However, in early December a court convicted a man for having “unnatural intercourse” with the victim.

*Other Societal Violence or Discrimination.*—Stigma and discrimination against persons with HIV/AIDS was high, but there were no reports of violence against persons with HIV/AIDS. Children with HIV/AIDS also faced discrimination, and teachers often were not told that a child was HIV positive for fear of verbal abuse from both educators and peers. The government maintained a home for orphaned children infected with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions without previous authorization or excessive requirements, and those laws were applied in practice. Almost one-quarter of the workforce (and 80 percent of the workers in the important hotel industry) belonged to unions. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions.

The law provides for the right to strike, and while workers exercised this right in practice, the government has the right to intervene in the national interest to assure delivery of essential services. The law requires that before a strike begins, a simple majority of a union’s membership must vote in favor of a motion to strike. The Ministry of Labor and Social Development must approve a strike ballot.

*b. The Right to Organize and Bargain Collectively.*—Workers freely exercised their right to organize and participate in collective bargaining, which the law protects. Employers can apply to have union recognition revoked if a collective agreement is not reached after 12 months. Unions and employers negotiated wage rates without government interference.

The law prohibits antiunion discrimination, and employers can be compelled to reinstate workers illegally fired for union activity. This law was generally enforced. Under the law, labor disputes first are filed with the Labor Ministry and then, if not resolved, are transferred to an industrial tribunal. The tribunal’s decision is final and can be appealed in court only on a strict question of law. Some employers complained that the industrial tribunal was biased unfairly in favor of employees. After a massive sick out by the Bahamas Nurses Union over a health insurance dispute, the government announced it would prosecute doctors who falsified sick notes. The nurses returned to work, but the issue remained unresolved at year’s end.

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. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred.

Local sources indicated that labor exploitation of undocumented Haitians could be widespread, and some immigrants may be subjected to conditions of involuntary servitude. Employers could coerce migrants to work long hours for no pay or below the minimum wage by withholding documents or threatening arrest and deportation. Migrant workers usually do not have access to labor protections under local law.

A 2008 IOM World Migration Report stated that smuggling rings continued to take advantage of the demand for labor by bringing in irregular migrants from Haiti. Some commercial sexual exploitation of women and minors was also identified.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law prohibits the employment of children under the age of 14 for industrial work or work during school hours, some children worked part-time in light industry and service jobs. Children under the age of 16 may not work at night. There was no legal minimum age for employment in other sectors. The Labor Ministry is responsible for enforcing these laws and did so adequately.

*e. Acceptable Conditions of Work.*—The government sets minimum wages in a transparent and tripartite manner. The minimum wage for government employees, set in 2000, was B\$4.45 (\$4.45) per hour. A minimum wage for the private sector was established in 2002 at B\$4.00 (\$4.00) per hour. The Labor Ministry was responsible for enforcing the minimum wage but did not do so effectively. Undocumented migrant workers often earned less than the minimum wage. The minimum wage did not provide a decent standard of living for a worker and family.

The law provides for a 40-hour workweek, a 24-hour rest period, and time-and-a-half payment for hours worked beyond the standard workweek. These standards were enforced effectively.

The Labor Ministry is responsible for enforcing labor laws and had a team of inspectors that conducted on-site visits to enforce occupational health and safety

standards and investigate employee concerns and complaints, although inspections occurred infrequently. The ministry normally announced inspection visits in advance, and employers generally cooperated with inspectors to implement safety standards. It was uncertain whether these inspections effectively enforced health and safety standards, although the ministry actively sought international assistance during the year to improve performance. The law does not provide a right for workers to remove themselves from dangerous work situations without jeopardy to continued employment.

## BARBADOS

Barbados is a parliamentary democracy with a population of approximately 278,000. In January 2008 general elections the Democratic Labour Party (DLP), which had been in opposition since 1994, defeated the Barbados Labour Party, and DLP leader David Thompson became prime minister. Civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, problems included excessive use of force by police and societal violence against women and children.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary or unlawful killings, but on rare occasions there were police killings in the line of duty. All such killings were investigated and referred to a coroner's inquiry when appropriate.

On June 9, police allegedly shot and killed Hugh Springer by accident, when they were responding to a disturbance. The killing was under investigation at year's end.

On December 14, police shot and killed Denzil Headley during an attempted drug landing at Roaches, St. Lucy parish. Media reports indicated that members of the police Drug Squad Unit returned fire when attacked while conducting a nighttime operation. A routine investigation was under way at year's end.

There was no information available about the outcome of the 2007 police killing of Michael Davis. After investigations into three police killings that occurred during 2006, the coroner found that the killing of Merlyn Layne was lawful, returned an open verdict in the killing of Kevin Ellis, and still was considering the killing of Richard Gordon.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the constitution specifically prohibits torture and inhuman or degrading punishment or other treatment, there were reports that police sometimes used excessive force. The majority of complaints against the police alleged unprofessional conduct and beating or assault. Police were occasionally accused of beating suspects to obtain confessions, and suspects often recanted their confessions during their trial. There were many cases where the only evidence against the accused was a confession. Suspects and their family members continued to allege coercion by police, but there was no evidence of systematic police abuse.

*Prison and Detention Center Conditions.*—Prison conditions improved since 2007, when 1,084 prisoners were transferred to H.M.P. Dodds, a new permanent prison in St. Philip, designed to meet modern international standards with a capacity of approximately 1,250 prisoners. In November it held 898 prisoners, including pretrial detainees. Although prisoners occasionally complained about the quality of the food, Dodds has a canteen program where family members can make cash deposits into inmate accounts, and inmates may purchase popular food, snacks, toiletries, and dry goods. The general reaction to the new prison was positive.

There were 35 female prisoners held in a separate wing.

The government permitted prison visits by independent human rights monitors.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and imprisonment, and the government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—At year's end the Royal Barbados Police Force (RBPF) numbered 1,444—including 1,002 special constables—and is responsible for internal law enforcement. While still a male-dominated profession, the number of female recruits increased to 214. The small Barbados Defence Force (BDF) protects national security and may be called upon to maintain public order



in times of crisis, emergency, or other specific need. The RBPF reports to the minister of home affairs, and the BDF reports to the minister of defense and security. Although the police largely were unarmed, special RBPF foot patrols in high-crime areas carried firearms. An armed special rapid response unit continued to operate. The law provides that the police can request the BDF to assist them as needed with special joint patrols.

The Office of Professional Responsibility (OPR) handled complaints of inappropriate police conduct. The office does not answer to independent civil authority and was frequently the subject of complaints of inaction concerning accusations of police abuse. The authorities did not report the number of cases the OPR handled, and there were no convictions of police for unlawful conduct or abuse of authority.

*Arrest Procedures and Treatment While in Detention.*—Police are authorized to arrest persons suspected of criminal activity; a warrant is typically required. The constitution permits detainees to be held without charge for up to five days; however, once charged, detainees must be brought before a court without unnecessary delay. There is a functioning bail system. Criminal detainees were given prompt access to counsel and were advised of that right immediately after arrest. Access to family members generally was permitted.

Police procedures provide that, except when expressly permitted by a senior divisional officer to do otherwise, the police may question suspects, and other persons they hold, only at a police station. An officer must visit detainees at least once every three 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.

There were between 50 and 100 persons in pretrial detention at various times during the year. While length of pretrial detention can vary from one case to another, there were no reports of extended periods of pretrial detention or abuse of the practice.

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

The judiciary includes the courts of first instance, or magistrate's courts, and the Supreme Court of Judicature, which consists of the High Court and the Court of Appeals. The Caribbean Court of Justice is the final court of appeal.

*Trial Procedures.*—The constitution provides that persons charged with criminal offenses be given a fair public hearing without unnecessary delay by an independent, impartial court and a trial by jury. The government generally respected these rights in practice. Defendants have the right to be present and to consult with an attorney in a timely manner. The government provided free legal aid to the indigent in family matters, child support, serious criminal cases such as rape or murder, and all cases involving minors. Defendants are allowed to confront and question witnesses and present evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their case. Defendants are presumed innocent until proven guilty and have the right of appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Magistrate's courts have both civil and criminal jurisdiction, but the civil judicial system experienced heavy backlogs. Citizens can seek redress for human rights or other abuses through the civil system.

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

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

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

There was no information available about the outcome of the December 2008 incident in which police arrested two journalists who were attempting to cover the arraignment of a police officer charged with drug possession and trafficking charges.

The government restricted the receipt and importation of foreign publications deemed to be pornographic.

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

According to the International Telecommunication Union, there were 74 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

To obtain import privileges or tax benefits religious groups must register with the government.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

For more detailed information, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/rpt/](http://www.state.gov/j/drl/rls/rpt/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits forced exile, and it was not used.

*Protection of Refugees.*—The laws do not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened.

The government did not grant refugee status or asylum during the year. Although no known cases occurred, the government was prepared to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In general elections held in January 2008, the DLP, which had been in opposition since 1994, defeated the Barbados Labour Party, led by Prime Minister Owen Arthur. The DLP won 20 of the 30 seats in the parliament's House of Assembly, and DLP leader David Thompson became prime minister.

There were no restrictions on the political opposition. Individuals and parties were free to declare their candidacy and stand for election.

Two cabinet members were female; there were three women in the House of Assembly. There were four women and three minorities in the 21-member appointed Senate.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively.

There was a report of alleged corruption involving a government-funded housing development program overseen by a junior minister under the previous government. Although the DLP uncovered the alleged corruption and called for an independent investigation, the opposition party did not officially dispute the incident and also called for an investigation. This matter had been a focal point of the 2008 general elections, and the new government launched a financial audit to see if criminal charges should be filed against those involved. The company involved went into receivership, and there were some reports that information may have been destroyed during the investigation. The DLP continued to allege corruption surrounding the building of the national highway system, begun under the opposition party. The highway issue continued at year's end with that dispute under litigation.

There is no law that subjects public officials to financial disclosure. Parliament's Public Accounts Committee and the auditor general conduct investigations of all government public accounts, which include ministries, departments, and statutory bodies.

There is no law providing citizens access to information held by the government. While access to information was provided on government Web sites, responses to requests for specific government information by citizens and other interested parties often were slow.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights* A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Ombudsman's Office hears complaints against government offices for alleged injuries or injustices resulting from administrative conduct. The governor general appoints the ombudsman on the recommendation of the prime minister in consultation with the leader of the opposition; Parliament must approve the appointment. The ombudsman submits annual reports to Parliament, which contain both recommendations on changes to laws or possible outcomes and descriptions of actions taken by the Ombudsman's Office.

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

The constitution provides for equal treatment regardless of race, origin, political opinion, color, creed, or sex, and the government effectively enforced these provisions.

*Women.*—The law criminalizes rape, including spousal rape, and the maximum penalty for it is life imprisonment. There were legal protections against spousal rape for women holding a court-issued divorce decree, separation order, or nonmolestation order. Authorities charged 109 persons with sex-related offenses, compared with 116 in 2008. Charges were brought in 65 cases of rape, compared with 49 in 2008; 17 cases of sex with a minor, compared with 19 in 2008; 35 cases of indecent assault, compared with 46 in 2008; and five cases on other charges, compared with seven in 2008 (some persons faced more than one charge). Many cases were pending in the courts, as there was one conviction for rape and one for sex with a minor, compared with two and one in 2008.

Violence and abuse against women continued to be significant social problems. The law prohibits domestic violence, provides protection to all members of the family, including men and children, and applies equally to marriages and to common-law relationships. Penalties depend on the severity of the charges and range from a fine for first-time offenders (unless the injury is serious) up to the death penalty for a killing. Victims may request restraining orders, which the courts often issued. The courts can sentence an offender to jail for breaching such an order. The police have a victim support unit, made up of civilian volunteers, which offered assistance primarily to female victims of violent crimes.

There were public and private counseling services for victims of domestic violence, rape, and child abuse. The Business and Professional Women's Club operated a crisis center staffed by trained counselors and provided legal and medical referral services. The government funded one shelter for battered women, operated by nongovernmental organizations (NGOs), which accommodated up to 20 women and children. The shelter offered the services of trained psychological counselors to victims of domestic violence.

The Bureau of Gender Affairs cited a lack of specific information and an appropriate mechanism for collecting and evaluating data on incidents of domestic violence as the major impediments to tackling gender-based violence.

Prostitution is illegal, but it remained a problem, fueled by poverty and tourism. A number of brothels with women from Guyana, the Dominican Republic, and other Caribbean islands operated in the country. The police and immigration officers periodically raided brothels and deported women found working illegally. There is no statute specifically prohibiting sexual tourism and no statistics on it, but anecdotal evidence suggested that it occurred.

The law does not specifically address sexual harassment, which was a problem. There were no statistics available on the prevalence of sexual harassment cases. Media reports often indicated that women were afraid to report sexual harassment because they feared retribution in the workplace. An NGO advocacy group called the Coalition on Sexual Harassment, together with the Department of Labor, among others, called for legislation to address this problem.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

The Office of Gender Affairs in the Ministry of Social Transformation worked to ensure the rights of women. Women have equal property rights, including in a divorce settlement. Women actively participated in all aspects of national life and were well represented at all levels of the public and private sectors. A Poverty

Eradication Fund focused on encouraging entrepreneurial activities to increase employment for women and youth.

*Children.*—Citizenship is obtained by birth in the country, but can also be attained through marriage and naturalization procedures. There was universal birth registration.

Violence and abuse against children remained serious problems. In December the minister of youth, family, and sports told the press that every month the Child Care Board received new cases of children who were victims of sexual abuse, physical abuse, domestic violence, emotional abuse, abandonment and neglect.

Pornography is illegal, but there was no information available about any specific prohibitions dealing with child pornography.

The Ministry of Labor and Immigration did not receive any complaints about child labor during the year. The youth, family, and sports minister acknowledged that child prostitution occurred; however, there was no research to document that problem.

The Child Care Board has a mandate for the care and protection of children, which involved investigating day care centers and cases of child abuse or child labor and providing counseling services, residential placement, and foster care. The Welfare Department offered counseling on a broad range of family related issues, and the Child Care Board conducted counseling for child abuse victims.

*Trafficking in Persons.*—The constitution and laws do not specifically prohibit trafficking in persons, although laws against slavery, forced labor, or other crimes could be applied. A law prohibiting the procurement of persons for sex, which carries a 15-year sentence, could be used to prosecute that type of trafficking cases. There were reports that persons from the Dominican Republic, Guyana, and Jamaica were trafficked to the country, both to work as prostitutes and as domestic workers or in the construction and garment industries.

The government has no dedicated facilities to assist victims and does not provide funding to antitrafficking NGOs. A number of local NGOs provided safe houses for battered women.

Trafficking victims have been treated as criminals and deported after being held temporarily for questioning.

The Office of Gender Affairs organized public forums to raise awareness of trafficking in persons.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—There are no laws that specifically prohibit discrimination against persons with disabilities in employment, education, or the provision of other state services, other than constitutional provisions asserting equality for all. In practice persons with disabilities faced some discrimination. The Ministry of Social Transformation operated a Disabilities Unit to address the concerns of persons with disabilities, but parents complained of added fees and transport difficulties for children with disabilities at public schools.

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

The government's National Disabilities Unit continued numerous programs for persons with disabilities, including Call-a-Ride and Dial-a-Ride public transportation programs, sensitization workshops for public transportation operators, inspections of public transportation vehicles, sign language education programs, integrated summer camps, and accessibility programs. However, the National Disabilities Unit was housed in a two-story walkup that was not handicap accessible until recently, when it moved to a new location that met all accessibility requirements.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law criminalizes consensual homosexual relations, and there are no laws that prohibit discrimination against a person on the basis of sexual orientation in employment, housing, education, or health care. Although no statistics were available, anecdotal evidence suggested that societal discrimination against gays and lesbians occurred.

*Other Societal Violence or Discrimination.*—The government funded a large country-wide media campaign to discourage discrimination against HIV/AIDS-infected persons and others living with them.

*Section 7. Worker Rights*

*a. The Right of Association.*—Workers freely exercised their right to form and belong to trade unions. Approximately 25 to 30 percent of the 120,000-person workforce was unionized; unionized workers were concentrated in key sectors such as transportation, government, the hotel sector, and agriculture. Of the 20,000-member public sector work force, 50 percent belong to the Public Workers Union, and about 20 percent of the private sector also belonged to that union. There were two major unions, one in the public sector and the other focused on the private sector, with some overlapping representation particularly in the state-owned enterprise sector. The unions wielded significant influence. Both unions belong to the Congress of Trade Unions and Staff Associations (CTUSA), which brings together all unions and staff associations. Police, firefighters, and prison officers are not allowed to unionize, but their associations function as quasi-unions and are members of the CTUSA.

The law provides for the right to strike, and workers exercised this right in practice. All private sector employees are permitted to strike, but the Trade Union Act and the Better Service Act prohibit essential workers, such as police, firefighters, electricity, and water company employees from engaging in strikes.

*b. The Right to Organize and Bargain Collectively.*—Workers exercised the legal right to organize and bargain collectively. Negotiated protocols contained provisions for increases in basic wages and increases based on productivity. Government, private sector, and labor representatives signed a fifth such protocol in 2005. It was still in place and, at year's end, a sixth protocol was under discussion. The Social Partnership Agreement provides for monthly meetings of labor, management, and government, and is chaired by the prime minister or the minister of state for labor affairs.

Although employers were under no legal obligation to recognize unions, most did so when a significant percentage of their employees expressed a desire to be represented by a registered union. The Trade Union Act governs trade union activities. Under that act, companies are not obligated to recognize unions or to accept collective bargaining. In practice, most major employers recognized unions, but smaller companies were often not unionized. The National Workers Union took a number of actions when it had reason to believe that companies were not respecting the rights of union members.

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 awarded monetary compensation but rarely ordered reemployment. Labor unions reported that some companies engaged in antiunion discrimination, and they have complained to the Labor Ministry on a number of occasions about what they deem to be antiunion activity by employers. According to the NWU general secretary, some unspecified foreign firms engaged in antiunion activities.

There are no export processing zones.

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

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides for a minimum working age of 16, and this provision generally was observed in practice. Compulsory primary and secondary education policies reinforced minimum age requirements. The Labor Department had a small cadre of labor inspectors who conducted spot investigations of enterprises and checked records to verify compliance with the law. These inspectors may take legal action against an employer who is found to have underage workers. According to the chief labor inspector, no underage employment cases were filed during the past few years.

*e. Acceptable Conditions of Work.*—The Shop Keepers Act provides for and the authorities established minimum wage rates for specified categories of workers. The process is transparent and involves tripartite participation by government, labor, and the private sector. The categories of workers with a formally regulated minimum wage are household domestics and shop assistants. The minimum wage for these employees was BDS\$5 (approximately \$2.50) per hour, which was only marginally sufficient to provide a decent standard of living for a worker and family. The Ministry of Labor and Immigration recommended that companies use this as the de facto minimum wage, and the prevailing wage on the island was higher than the legal minimum wage. The Labor Department within that ministry was charged with enforcing the minimum wage. There were occasional press reports alleging that migrant workers received less than the minimum wage, but the chief labor inspector insisted that all workers' salaries were above the minimum wage.

The standard legal workweek is 40 hours in five days, and the law requires overtime payment of time and one-half for hours worked in excess. The law prescribes that all overtime must be voluntary.

The government announced an amnesty program for illegal migrants, giving such migrants until the end of the year to register. Employed migrants may apply for permission to stay; all others will be subject to deportation proceedings.

The 2005 Occupational Safety and Health at Work Act was never promulgated into law, as it was passed at the end of the last administration and was therefore still under review. The Labor Department enforced other health and safety standards, such as those in the 1986 Factories (Amendment) Act, and in most cases followed up to ensure that management corrected problems cited. The law requires that in certain sectors firms employing more than 50 workers create a safety committee that could challenge the decisions of management concerning the occupational safety and health environment. The Ministry of Labor and Immigration hired five new health and safety officers in 2008, who received a two-week basic occupational and safety standards course, along with union staff and other employer health and safety inspectors.

Civic organizations such as the Barbados Employer's Confederation worked closely with the government to ensure that worker safety was protected despite the non-implementation of the 2005 law. Trade union monitors identified safety problems for government health and safety inspectors to ensure the enforcement of safety and health regulations and effective correction by management. The Labor Department's Health and Safety Inspection Unit conducted several routine annual inspections of government-operated corporations and manufacturing plants. Workers had the right to remove themselves from dangerous or hazardous job situations without jeopardizing their continued employment.

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## BELIZE

Belize is a constitutional parliamentary democracy with an estimated population of 314,300. In February 2008 Prime Minister Dean Barrow's United Democratic Party (UDP) won 25 of the 31 seats in the House of Representatives following generally free and fair multiparty elections. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently.

The government generally respected the human rights of its citizens. Human rights problems included killings and the use of excessive force by security forces, which the government in some cases took steps to prosecute administratively. Other problems included lengthy pretrial detention, domestic violence, discrimination against women, sexual abuse of children, trafficking in persons for sexual and labor exploitation, discrimination based on sexual orientation, and child labor.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, there were isolated reports that security forces committed arbitrary or unlawful killings.

In March police officers shot and killed a 20-year-old Belize City resident during an alleged robbery attempt. Witnesses claimed that the police officer stood over the man and shot him in the face. There was no additional information on the case from the Office of Internal Affairs (OIA). There was no known investigation.

In August a Belize City family claimed that police officers beat their 17-year-old son to death while he was in custody on charges of robbery. Witnesses stated that the boy was last seen with police officers in a police vehicle before his body was found. There was no known investigation.

In August 2008 a police constable was charged with murder for shooting a man in the back of the head. The court date, originally set for October 2008, was postponed twice and remained to be rescheduled 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.*—While the constitution prohibits torture or other inhuman punishment, there were numerous reports that police used excessive force.

On January 5, the politically appointed position of ombudsman, which receives complaints of alleged misconduct and abuse by police, was filled after being vacant for a year. The government occasionally ignored reports of abuses, withheld action

until the case had faded from the public's attention, and then failed to take punitive action or transferred accused officers to other districts.

Through September the police Office of Internal Affairs (OIA) received 41 allegations of police violence and 50 complaints of police abuse. The Office of the Ombudsman reported that, as of September, it filed 15 requests for information with the OIA regarding allegations of police brutality.

In February a man from Belize City stated that three police officers attacked him and left him bleeding on the pavement with injuries that required hospital treatment. The man indicated he would file a report with the OIA; however, at year's end, the OIA reported that no complaint had been filed.

In July a youth claimed that two police officers detained him, told him he was being taken to the police station, but instead drove him to the side of a major highway and used excessive force on him, which included beatings and a gunshot to the head.

In August a youth claimed that he was taken to a burglary crime scene and beaten by a police officer before being charged for the burglary. There was no additional information from the OIA regarding the claim.

In November authorities charged a police corporal with sexual assault while on duty. The corporal was released on bond and awaited trial at year's end.

In December a 14-year-old crime suspect claimed that he had been beaten and sexually assaulted while in police custody. The case remained pending at year's end.

A court convicted and sentenced to 12 years' imprisonment the Dangriga police constable suspended from duty on charges of raping a 14-year-old girl in 2007; however, the conviction was reversed on appeal.

There were no developments, and none were expected, in the 2007 case where police shot and killed a San Pedro man, claiming afterward that he had pointed a gun at them. Although ordered by the Office of the Director of Public Prosecutions (DPP), a coroner's inquest had not been rescheduled, and the case remained under investigation at year's end.

*Prison and Detention Center Conditions.*—Prison conditions were poor and did not meet international standards. The number of inmates in the country's only prison, Belize Central Prison, fluctuated between 1,400 and 1,450; on December 1, it held 1,423 inmates, including 28 women and 49 juveniles. In February the prison opened a new facility with a capacity to hold 550 remanded prisoners, increasing capacity from 1,200 inmates to 1,750. Although the prison budget provided BZ\$13 (\$6.50) per prisoner per day for operating costs, a local nonprofit organization, the Kolbe Foundation, which administered the Belize Central Prison, reported that actual costs were 10 percent higher. Funding from independent sources defrayed costs above the budgeted level. Prisoners in the supermax (Tango 10) section sometimes lived two per cell. Isolation in a small, unlit, unventilated punishment cell, called a "reflection room," was used to discipline inmates in the youth section.

The Belize Central Prison, which investigated formal complaints regarding prison conditions, reported no cases of abuse or excessive force by prison officials. The prison holds officer tribunals approximately twice a month to deal with officer misconduct, including such issues as absence without leave, dereliction of duty, and disobeying the rules. Disciplinary actions were taken in 80 to 90 percent of the cases brought before the tribunal; 30 percent of those actions resulted in termination of employment. Prison officers committing criminal offenses do not go through the tribunal process but are immediately detained and processed through the judicial system.

As of November, there were approximately 31 incidents of inmate-on-inmate violence, two of which resulted in serious injuries requiring hospitalization; there was one fatality, which was under investigation by the Belize National Police.

The Belize Central Prison has four counselors, including a woman who counsels female inmates. The prison includes a separate facility for women, located 200 yards outside of the main compound. Conditions in the women's facility are significantly better than those in the men's compound. The courts occasionally sent female juveniles to the Belize Central Prison; however, most of those convicted were placed in the care of the government social services authorities in facilities such as the Youth Hostel. There was one 17-year-old woman at the prison who shared a cell with a female adult. Male juveniles, both on remand and convicted, lived in a separate facility outside the main perimeter fence of the Belize Central Prison, but they were within visual and auditory distance of the adult facility.

The government permitted visits by independent human rights observers. The ombudsman made her first visit to the Belize Central Prison in August.

Living conditions at the country's sole prison continued to improve: every cell has a toilet and proper lighting, and all cells were protected from the elements. Trustees

were held in larger rooms of eight to a cell, while the regular prison population was held in cells of two to four prisoners.

*d. Arbitrary Arrest or Detention.*—Although the constitution and law prohibit arbitrary arrest and detention, there were occasional accusations of arbitrary arrest and detention.

*Role of the Police and Security Apparatus.*—National and local police under the Office of the Commissioner of Police maintain internal security. The Ministry of National Security supervises the Department of Police and the Department of Immigration. The Customs Department reports to the Ministry of Finance. The Belize Defense Force (BDF), under the Ministry of National Security, handles external security and also has some responsibilities for domestic security under the Office of the Commissioner of Police to complement mobile and foot patrols. BDF soldiers carry out preventive patrols along with the police, primarily in Belize City. The 1,193-member national police force responded to complaints. Inadequate government resources, low pay for officers, and corruption remained problems. During the year there were no reported cases of impunity for security authorities.

As of November, the OIA had received a total of 135 complaints against police officers and investigated 16 complaints of police corruption. Authorities investigated 89 police officers for corruption, violence, or abuse, resulting in 10 monetary fines, five reprimands, two severe reprimands, four dismissals, one recommendation for dismissal, and 67 findings of not guilty or justifiable actions. A total of 46 cases related to corruption, violence, or abuse remained under investigation.

*Arrest Procedures and Treatment While in Detention.*—Police must obtain search or arrest warrants issued by a magistrate, except in cases of hot pursuit, when there is probable cause, or when the presence of a firearm is suspected. The law requires police to inform a detainee (in writing) of the cause of detention within 48 hours of arrest and to bring the person before a magistrate to be charged within a reasonable time (normally 24 hours). In practice, arresting police informed detainees immediately of the charges against them.

The law requires police to follow the Judges' Rules, a code of conduct governing police interaction with arrested persons. Although cases sometimes were dismissed when the Judges' Rules were violated, more commonly a confession obtained through violation of these rules was deemed invalid. Detainees usually were granted timely access to family members and lawyers, although there were occasional complaints that inmates were denied access or a telephone call after arrest. While there is a functioning bail system, a 2008 law prohibits magistrates or police officers from granting bail for certain offenses, such as murder, kidnapping, any offense committed with a firearm, or narcotics charges involving 2.2 pounds or more of illegal drugs. In such cases the Supreme Court may grant bail upon receiving an application.

Detainees sometimes could not afford bail, and backlogs in the docket often caused considerable delays and postponement of hearings, occasionally resulting in prolonged pretrial detention. As of November, there were 425 persons (29 percent of the prison population) in pretrial detention.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the government generally respected judicial independence. The constitution is the supreme law of the land, and persons have the right to bring legal actions for alleged violations of rights protected under the constitution, regardless of whether there is also implementing legislation.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law extends the following rights to persons accused of civil or criminal offenses: presumption of innocence, protection against self-incrimination, defense by counsel only in capital cases, a public trial, and appeal. Defendants have the right to be present at their trial unless the court determines that the opposing party has a substantiated fear for their safety, in which case the court can grant interim provisions that both parties be addressed individually during a five-day period.

The government provided legal counsel for indigent defendants only in capital murder cases. Most defendants could not afford an attorney, and there was a higher rate of conviction of defendants without legal representation. Many defendants remained unrepresented. The constitution and law allow defendants to confront and question witnesses against them and to present witnesses on their behalf. Defendants have the right to produce evidence in their defense and to examine evidence held by the opposing party or within the hands of the court.

Lengthy trial backlogs remained during the year. The DPP cited staffing constraints as the main reason for the backlog. Routine cases without a defense attorney were decided within three months, but cases involving a serious crime or in



which a defense attorney was present took more than one year. The DPP dismissed a large number of Supreme Court cases, citing uncooperative witnesses or a lack of evidence. Judges were often slow to issue rulings, which sometimes took a year or longer.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Most civil suits are heard in the Supreme Court; however, the magistrates' courts have jurisdiction over civil cases involving sums of less than BZ\$5,000 (\$2,500). In addition to civil cases, the Supreme Court has jurisdiction over cases involving human rights issues. The backlog of civil cases in the Supreme Court increased during the year due to an increase in the number of cases.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such practices, and government authorities generally respected these prohibitions in practice.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. The constitution, however, permits authorities to forbid any citizen from questioning the validity of 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 BZ\$5,000 (\$2,500), imprisonment of up to three years, or both. There were no reports that this prohibition was invoked during the year.

The independent media were active and expressed a wide variety of viewpoints without restriction. All newspapers were subject to libel laws that were enforced during the year.

The Belize Broadcasting Authority regulated broadcasting and had the right to preview certain broadcasts, such as those with political content, and to delete any defamatory or libelous material from political broadcasts. This right was not exercised during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Lack of infrastructure and high costs limited public access to the Internet. The International Telecommunication Union reported that in 2008 there were 11 Internet users per 100 inhabitants.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

Pursuant to a constitutional amendment, the governor general appoints one of 12 senators, in accordance with the advice of the Belize Council of Churches and the Evangelical Association of Churches.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. There were fewer than 10 members in the Jewish community.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution prohibits forced internal or external exile of citizens.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. Its laws provide for the granting of asylum or refugee status, but the government no longer has an established system for providing protection to refugees. The non-

governmental organization (NGO) Help For Progress, the UNHCR's implementing partner in the country, assisted with refugee and asylum cases. Individual cases were handled through the Immigration and Nationality Department.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. In February a group of 16 Cubans found floating on a craft off the coast were reportedly brought ashore, given treatment, and placed in detention while awaiting a decision about repatriation. According to media reports, two individuals died, one went missing, and the remaining 13 sought judicial review of their claims for refugee status. Eventually the government assisted in the repatriation of 10 individuals in May, while the remaining three applied for asylum, were offered work permits, and were awaiting results on their asylum applications at year's end. The government also provided protection for and assisted in the voluntary repatriation of an Indian national in June.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held by secret ballot and on the basis of universal suffrage for all citizens age 18 and older.

*Elections and Political Participation.*—In February 2008 the UDP obtained a parliamentary majority in generally free and fair elections.

There were five women, among them the president, in the 12-member appointed Senate but no women in the 31-seat House of Representatives. Mestizo, Creole, Maya, Garifuna, Mennonite, and other minority and immigrant groups were represented in the National Assembly and at the highest levels of government.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, there have been no successful prosecutions for official corruption. The World Bank's worldwide governance indicators reflected that corruption was a problem.

In June the chief justice of the Supreme Court dismissed the case charging former prime minister Said Musa with theft of BZ\$20 million (\$10 million).

The Prevention of Corruption in Public Life Act requires public officials to submit annual financial statements, which are to be reviewed by the Integrity Commission.

The law provides for public access to documents of a ministry or prescribed authority upon written request, although it protects a number of categories, such as documents from the courts or those related to national security, defense, or foreign relations. The government must supply to the Office of the Ombudsman a written reason for any denial of access, the name of the person making the decision, and information on the right to appeal.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The ombudsman, although appointed by the government, acts as an independent check on governmental abuses. The Office of the Ombudsman consists of the ombudsman, an assistant, and a secretary. By year's end, the office had not published its annual report. The Office of the Ombudsman reported difficulty in receiving information from the Belize Police Department regarding allegations of police brutality. The ombudsman reported that information received was insufficient, resulting in her decision to initiate independent judicial proceedings for 15 cases.

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

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the government effectively enforced these prohibitions.

*Women.*—The law criminalizes rape, including spousal rape.

The criminal code states that persons convicted of rape or marital rape shall be sentenced to not less than eight years' and up to life imprisonment. In practice, however, sentences were often much lighter. In a number of instances, the DPP dropped the charges if the accusing party did not testify at trial. Police and courts enforced statutory rape laws; however, in relation to the number of accusations, convictions were infrequent, as the prosecution discontinued cases when complainants were unwilling to proceed or requested no further court action. Police reported 30

cases of rape during the year; there were 13 arrests in the 16 cases reported through September.

The law prohibits domestic violence and contains penalties, including imprisonment, for violations, depending on the crime. The law empowers the family court to issue protection orders against accused offenders. Domestic violence against women remained a significant problem. Through June the Belize Police Department reported that 782 cases of domestic violence were recorded by police and health authorities. Domestic violence was most prevalent in the Belize District, which includes Belize City. There were two women's shelters in the country (with a total of 18 beds) that offered short-term housing.

The law does not explicitly address adult prostitution, and the government did not use law enforcement resources to combat prostitution. Loitering for the purposes of prostitution, operating a brothel, and soliciting sex are illegal.

The magistrates' courts deal with sexual harassment complaints. There are no criminal penalties for sexual harassment, and no sexual harassment cases were brought during the year.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and they had the information and means to do so free from discrimination, coercion, and violence. Programs undertaken by the Ministry of Health and the Belize Family Life Association provided for information and access to family planning and reproductive health services. Women and men were afforded equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Despite legal provisions for gender equality, the media continued to report that women faced social and economic discrimination. There were no legal impediments to women owning or managing land or other real property. Women participated in all spheres of national life but held relatively few top managerial positions. Although the law mandates equal pay for equal work, women tended to earn less than men. The median monthly income for a working woman was BZ\$710 (\$355), compared with BZ\$751 (\$374.50) for a man, based on the 2007 Belize Labor Force Survey.

The Women's Department under the Ministry of Human Development and Social Transformation is responsible for developing programs to improve the status of women. A number of officially registered women's groups also worked closely with various government ministries to promote social awareness programs.

*Children.*—Citizenship is derived by birth within the country's territory, regardless of the nationality of the parents. Citizenship may also be acquired by descent if at least one parent is a citizen of the country; however, citizenship by descent is not automatic for a child born outside the country.

The law requires the registration of the birth of children, and it was effectively enforced.

Through June the Epidemiology Unit at the Ministry of Health recorded 110 cases of domestic violence and 36 cases of sexual abuse against children under 14, and the police reported 42 cases of unlawful carnal knowledge as of September. In many cases, the government was unable to prosecute individuals for sexual abuse and unlawful carnal knowledge because the victims or their families were reluctant to press charges.

The law allows authorities to remove a child from an abusive home environment and requires parents to maintain and support children until the age of 18. The UN Children's Fund (UNICEF) expressed concern about the criminal justice system's response to cases, as many of the perpetrators were not prosecuted and many cases were withdrawn due to lack of evidence and poor-quality investigations.

The Family Services Division in the Ministry of Human Development and Social Transformation is the government office devoted to children's issues. The division coordinated programs for children who were victims of domestic violence, advocated remedies in specific cases before the family court, conducted public education campaigns, investigated cases of trafficking in children, and worked with local and international NGOs and UNICEF to promote children's welfare.

The legal age for consensual sex is 16. Carnal knowledge of a female child under the age of 14, with or without her consent, is an offense punishable by 12 years' to life imprisonment. Carnal knowledge of a girl who is 14 to 16 is an offense punishable by five to 10 years' imprisonment.

Paid sex with a 16- or 17-year-old is a crime. The law criminalizes the procurement or attempted procurement of unlawful carnal knowledge with a female who is under the age of 18 and who is not a common prostitute or of "known immoral character;" an offender is liable to five years' imprisonment.

There are no laws against pornography; however, the criminal code establishes a penalty of two years' imprisonment for persons convicted of publishing or offering for sale any obscene book, writing, or representation.

*Trafficking in Persons.*—The law prohibits trafficking in persons, which is punishable by fines of up to BZ\$10,000 (\$5,000) and imprisonment of up to five years. There were reports that persons were trafficked within, to, and through the country, mainly from neighboring countries, for purposes of forced labor and commercial sexual exploitation.

There were no reliable estimates of the extent of trafficking. However, the Ministry of Foreign Affairs, working with the Ministry of Human Development, indicated that three victims of trafficking in persons were identified through year's end. Of the three investigations, two reports were unsubstantiated and one investigation continued at year's end. There were reports that women were trafficked to the country from neighboring countries, such as Guatemala, Honduras, and El Salvador, primarily for prostitution and nude dancing. NGOs reported that persons in the commercial sex trade appeared to be in the country (and in their current occupation) by choice, usually at the suggestion of a friend or family member who was also engaged in commercial sex work. Victims generally lived in squalid conditions in the bars where they worked. Some bar owners reportedly confiscated victims' passports.

The government's National Committee for Families and Children and UNICEF reported that underage girls from economically disadvantaged backgrounds often provided sexual favors to older men, "sugar daddies," in exchange for clothing, jewelry, school fees, or books at the urging of their families. Adolescent girls, some of whom were trafficked within the country and to and from neighboring countries, worked as domestic servants and in commercial sexual activities.

There were no successful prosecutions of traffickers during the year. One case involving five Indian nationals was scheduled to go to trial on September 28; however, the trial was delayed while the prosecutor searched for a qualified interpreter.

The law provides for limited victims' assistance, although in practice government resources were insufficient to provide meaningful aid to victims. Noncitizen victims willing to assist in prosecuting traffickers are legally eligible for residency status.

The government's Anti-Trafficking in Persons Committee, led by the Ministry of Human Development and including representatives of various other ministries, departments, and NGOs, is the lead entity in combating trafficking. The NGO Youth Enhancement Services (YES) launched a public awareness campaign in October to combat "intergenerational transactional sex."

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/t/tip](http://www.state.gov/t/tip).

*Persons With Disabilities.*—Although the law does not expressly prohibit discrimination against persons with physical and mental disabilities, the constitution provides for the protection of all citizens from any type of discrimination. The law does not provide for accessibility for persons with disabilities. There were two schools (the Cayo Deaf Institute in Central Farm and the Stella Maris School for disabled children in Belize City) and four special education centers (located in Corozal, Punta Gorda, Orange Walk, and Dangriga) for children with disabilities.

Informal government-organized committees for persons with disabilities were tasked with public education and enforcing protection. Private companies and NGOs, such as the Parents Association for Children with Special Needs and the Belize Council for the Visually Impaired, provided services to persons with disabilities. The Ministry of Education maintained an educational unit offering limited special education programs within the regular school system.

*National/Racial/Ethnic Minorities.*—Ethnic tension, particularly resentment of recently arrived Central American and Asian immigrants, continued to be a problem, resulting in discrimination characterized largely by verbal mistreatment.

*Indigenous People.*—The country's pluralistic society comprised several ethnic minorities and indigenous Mayan groups. Among the country's indigenous population, the Mopan and Kekchi historically were characterized under the general term Maya, although self-proclaimed leaders more recently asserted that they should be identified as the Masenal ("common people"). The Maya Leaders' Alliance, which comprised the Toledo Maya Cultural Council, the Kekchi Council of Belize, the Toledo Alcaldes Association, and the Toledo Maya Women's Council, monitored development in the Toledo District with the goal of protecting Mayan land and culture. While there were legal disputes concerning land development, there were no reports of governmental violations of civil or political rights. In July the Supreme Court heard a communal land rights case including 38 villages in the Toledo District that was filed in 2008 by the Maya Leader Alliance and the Toledo Alcaldes Association.

The case was heard in July, and the chief justice's judgment was pending at year's end.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law does not protect sexual orientation or gender identity. The criminal code states that “carnal intercourse” with “any person” “against the order of nature” shall receive a punishment of 10 years' imprisonment. The law is interpreted as affecting male-to-male sex but not female-to-female sex.

The extent of discrimination based on sexual orientation was difficult to ascertain due to lack of reporting of instances of discrimination through official channels.

In July two men from Orange Walk alleged they were harassed because of their sexual orientation. One of the men reported to the United Belize Advocacy Movement (UNIBAM) that he and his partner were harassed by a group of police officers while visiting a local public park. The officers took the men to the police station where they detained one of the men overnight. During detention, the man alleged that the police verbally abused him with derogatory comments about his sexual orientation. The individual refused to file a complaint due to fear of future harassment and information that one of the police officers conducting the harassment was also the officer in charge.

The country's sole lesbian, gay, bisexual, and transgender advocacy organization, UNIBAM, reported that continuing harassment and insults by the general public and police affected its activities; however, its members were reluctant to file complaints. There were no gay pride marches organized in the past year due to UNIBAM membership concerns over the public's reaction to such a march.

*Other Societal Violence or Discrimination.*—There was some societal discrimination against persons with HIV/AIDS, and the government worked to combat it through the public education efforts of the National AIDS Commission under the Ministry of Human Development and through the Pan American Social Marketing Organization.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—By law and in practice, workers were generally free to establish and join trade unions. Eleven independent unions, whose members constituted approximately 7 percent of the labor force, represented a cross section of workers, including most civil service employees. The Ministry of Labor recognizes a union after it has registered. The union must be certified by a tripartite body, comprising three members each from an established trade union, the business community, and the government, in order to represent workers. Both law and precedent effectively protect unions against dissolution or suspension by administrative authority.

The law permits unions to strike and does not generally require notice before a strike. However, this right is not extended to public sector workers in areas designated as “essential services,” which are broadly defined and include postal, sanitary, health, and other services, as well as services in which petroleum products are sold. Essential services workers must provide 21 days' notice to strike. The law also empowers the government to refer a dispute to compulsory arbitration in order to prevent or terminate a strike.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and unions practiced it freely. Although employers and unions can set wages in free negotiations, more commonly employers simply established them. The labor commissioner or his representative has the authority to act as a mediator in deadlocked collective bargaining negotiations between labor and management, offering nonbinding counsel to both sides. If either union or management chooses not to accept the commissioner's decision, they may request a legal hearing.

Unions may organize freely, but the law does not require employers to recognize a union as a bargaining agent if no union within that sector covers more than 50 percent of the workers.

The law prohibits antiunion discrimination and contains a mechanism by which employees terminated for union organizing may seek redress. In practice there was antiunion discrimination on the banana plantations and in the export processing zones (EPZs), where employer collectives and associations have not agreed to recognize unions. While an aggrieved employee can seek redress from the courts, effective redress for workers dismissed for union organizing was extremely difficult to obtain. Although workers are able to file complaints with the Labor Department, it was difficult for workers who filed complaints to prove that their termination was due to union activity, and fines imposed on employers in cases of antiunion discrimination were too low to discourage employers from such practices.

There are no special laws or exemptions from the regular labor laws in the country's 63 EPZs. There were no unions in the EPZs.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under age 12 and the employment of children between the ages of 12 and 14 before the end of school hours on official school days. While the law does not expressly provide for a maximum number of weekly hours of work that can be performed by persons under 18 years of age, it generally limits work hours for all persons to 45 hours per week. The law expressly prohibits children from working overtime. The law permits children to work on family farms and in family-run businesses. The minimum age for employment involving hazardous machinery is 17 years. There were ambiguities in the legal definition of child labor in relation to light work, hazardous work, and artistic performance. Inspectors from the Departments of Labor and Education are responsible for enforcing regulations governing child labor, but there were no updated reports on whether child labor laws were well enforced during the year.

Child labor was a problem in family-related commercial activities. Children in rural areas worked on family plots and businesses after school, on weekends, and during vacations, and they were involved in the citrus and banana industries as field workers. Children in urban areas shined shoes and sold food, crafts, and other small items. Adolescent girls were trafficked within, to, and from the country (see section 6, Trafficking in Persons). Children frequently sold fruit and baked goods along the country's northern and southern highways and also crossed into the country from Guatemala on a daily basis to work as street vendors in the urban centers of the Cayo district. A 2003 International Labor Organization study, the most recent available, estimated that 6 percent of children between the ages of five and 17 were working, with 69 percent engaged in hazardous work.

*e. Acceptable Conditions of Work.*—The national minimum wage varied according to the type of work in which an employee is engaged. The minimum wages for various sectors were established on the basis of a survey of various domestic businesses, resulting in an average that was reviewed and approved by the cabinet. The survey was conducted in 2006 by the wages council, which consisted of representatives of government, employers, and unions. For those in agriculture and agroindustry, the hourly minimum wage was BZ\$2.50 (\$1.25); for manual and domestic workers, it was BZ\$3.00 (\$1.50). The minimum wage law did not cover workers paid on a piecework basis. The national minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Labor was charged with enforcing the minimum wage, which generally was respected in practice.

The law sets the workweek at no more than six days or 45 hours and requires premium payment for overtime work. The exploitation of undocumented Central American workers, particularly young service workers and agricultural workers, continued to be a problem.

Several different health and safety regulations covered numerous industries, and the Ministry of Labor enforced these regulations to varying degrees due to limited resources. The government committed its limited inspection and investigative resources principally to urban and more accessible rural areas where labor, health, and safety complaints were registered. Workers have the legal right to leave a dangerous workplace situation without jeopardy to continued employment and did so in practice.

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## BOLIVIA

Bolivia is a constitutional, multiparty democracy with a population of approximately 9.7 million. On January 25, Bolivians approved a new constitution. On December 6, in a process deemed free and fair by international observers, citizens re-elected Evo Morales Ayma, leader of the Movement Toward Socialism (MAS) party, as president. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were significant problems in a number of areas. These included alleged abuses by security forces; harsh prison conditions; allegations of arbitrary arrest and detention; an ineffective, overburdened, and corrupt judiciary; a "partly free" media; corruption and a lack of transparency in government; discrimination based on gender,

ethnicity, and sexual orientation; trafficking in persons; child labor; forced or coerced labor; and harsh working conditions in the mining sector.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed politically motivated killings. Unlike in the previous year, there were no reports that deaths occurred during politically related conflicts; however, security forces killed three alleged international terrorists.

On April 16, an elite police unit raided a downtown Santa Cruz hotel and shot and killed three alleged terrorists—Bolivian-Hungarian Eduardo Rozsa-Flores, Hungarian Arpad Magyarosi, and Irishman Michael Dwyer—and arrested two others—Mario Tadic, a Croatian, and Elod Toaso, a Hungarian. The government claimed Rozsa-Flores led a group recruited by the political opposition that intended to assassinate President Morales and assist in the secession of the department of Santa Cruz. Opposition leaders denied these charges and claimed the government itself recruited or quickly infiltrated the group and then executed the three men so they could not discuss government involvement. An official congressional inquiry found that police acted lawfully and disrupted a terrorist cell. A report by opposition commission members questioned the majority findings and the circumstances of the terrorist deaths.

Mob violence, sometimes incorrectly characterized by perpetrators as “indigenous justice” or “community justice,” often led to violent deaths. Although the concept of “indigenous justice” is discussed in the country’s new constitution, the government strongly rejected the interpretation that the constitution permits mob violence, noting the constitution specifically bans capital punishment. Many observers attributed such “community justice” to the absence of effective police and judicial presence in many urban and rural areas.

While there were no official statistics for such crimes, the government’s Special Force Against Crime (FELCC) unofficially registered 53 such attempts. On December 16, local daily newspaper *La Razon* reported 14 episodes of mob violence that resulted in death during the year.

Killings committed in the name of community justice occurred during the year.

On February 1, farmers in Ancoraimes, Omasuyos, killed a high school student from La Paz, accusing him of stealing a small bus.

On April 10, a 25-year-old bicycle thief in southern Cochabamba died after a crowd tied him to an electric fence post and beat him.

On October 18, La Paz press reported that a mob in neighboring El Alto beat and then burned to death 38-year-old Pablo Quispe Laura for trying to steal a canister of liquid gas.

There were no developments in the investigation of the September 2008 deaths of 13 persons in the cities of Porvenir and Cobija in Pando Department; 11 individuals died in a confrontation between marching campesinos and Porvenir townspeople, and two others were killed the next day after security forces landed at Cobija airport. On the anniversary of the conflict, opposition civic groups released video footage of townspeople asking the marchers not to enter Porvenir, hostages being taken by the marchers, federal police forces failing to act, and the two groups shooting at each other. On October 12, within the 18-month period allowed for investigation, prosecutors brought formal charges against former prefect (governor) Leopoldo Fernandez and other defendants for their alleged roles in the conflict.

There were no developments in the prosecutor’s investigation into the August 2008 deaths of two miners during a confrontation with police in Cahuasi, near the border of Oruro and Cochabamba Departments.

Congress did not act on a December 2008 request by the Supreme Court to authorize an impeachment trial for members of the Ministry of Government, including Government Minister Alfredo Rada, implicated in the 2007 killings in Sucre of Gonzalo Duran Carazani, Juan Carlos Serrudo, and Jose Luis Cardozo allegedly by security forces.

There were no developments in the military or civil investigations into the 2007 death of Osmar Flores Torres in Arani, Cochabamba Department, in which police denied using lethal weapons in responding to a demonstration. Although the case’s 18-month investigatory phase ended, the civilian prosecutor did not close the case, bring it to trial, or identify a person responsible for further prosecution.

There were no new developments in the 2007 shooting of Herman Ruiz.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports that security forces beat terrorist suspects.

Following the April 16 arrest of Mario Tadic and Elod Toaso in connection with alleged terrorist activities (see section 1.a.), a Web site showed pictures of Toaso with large bruises on his face, legs, arms, and buttocks. Other sources showed similar pictures of Tadic. After meeting Toaso in jail, the Hungarian ambassador told local media, “Unfortunately, they mistreated this Hungarian citizen during the arrest. You can see this on his face and other parts of his body.” The human rights ombudsman also confirmed both were beaten.

On May 16, Jhenieffer Wissemberg told local media that government-affiliated thugs beat her severely in August 2008, causing her to lose sight in her right eye. She said the beating was a reprisal for accusations by her husband, former national customs department president Cesar Lopez, that Presidency Minister Juan Ramon Quintana coordinated delivery of 33 truckloads of contraband to Brazil. Wissemberg said that Quintana ordered the attack and two subsequent attacks when her husband did not respond to a series of threatening telephone calls directing him to recant his accusations. On May 7, the MAS-controlled lower house of Congress dismissed Lopez’s charges, exonerated Quintana, and charged Lopez with corruption.

There were several incidents of nonlethal mob violence during the year.

On March 3, former Congress member and MAS party dissident Marlene Paredes was attacked by a large group and expelled from her home in the Yungas Valley. Paredes said the group comprised MAS party followers who shouted as they beat her that the attack was “community justice” for being a traitor to the MAS. In an interview, Paredes showed pictures of large bruises covering her body. The government denied any connection with the attack and closed the case. Paredes presented her case to the Inter-American Commission on Human Rights, which had not responded formally by year’s end.

On March 7, approximately 300 persons invaded the home of former vice president and opposition political leader Victor Hugo Cardenas, where they attacked and evicted his wife and two children, ransacked their belongings, and refused to allow police to enter the property for weeks. According to news reports, many in the mob specifically called the action “community justice” and said the constitution empowered them to take such actions. Cardenas said he held the Morales administration responsible for the attack. He sued Government Minister Alfredo Rada for the government’s refusal to prosecute the attackers and for the lack of police action to return the home. Government spokespersons disavowed any responsibility. After initially declaring that Cardenas brought the attack upon himself for past “traitorous” acts, Vice President Alvaro Garcia Linera called for the return of Cardenas’ home, saying the constitution “contains absolute respect for private property.” The property had not been returned to Cardenas, and social group representatives maintained a vigil near the house at year’s end, denying entrance to Cardenas and local police.

On April 7, police in Cochabamba broke up three separate lynching attempts to kill up to 10 persons for robberies. In one incident a crowd beat a group of six children ranging in age from 14 to 17, only to find hours later the children were not the thieves.

On May 11, the pro-MAS Federation of Indigenous People of Eastern Bolivia (CIDOB) announced they had applied “community justice” to Beni Department Director of Indigenous Development Marcial Fabricano by publicly whipping him 50 times. CIDOB leader Adolfo Chavez said Fabricano was punished for not appointing MAS leaders to prominent positions in Beni. The government disavowed the attack and started a formal investigation, but no results were announced by year’s end.

*Prison and Detention Center Conditions.*—Prison conditions were harsh. Prisons were overcrowded and in poor condition. Government authorities effectively controlled only the outer security perimeter of each prison. Prisoners usually maintained control, and gangs directed criminal activity from their cells.

Violence among prisoners, and in some cases the involvement of prison officials in violence against prisoners, were problems.

Corruption was a problem among low-ranking and poorly paid guards and prison wardens. The number of persons held in detention centers remained a problem. A prisoner’s wealth often determined cell size, visiting privileges, day-pass eligibility, and place or length of confinement. Inmates reportedly paid fees to prior cell occupants or to prisoners who controlled cellblocks.

Although the law permits children up to six years old to live with an incarcerated parent, children as old as 12 lived with their parents in prisons. (The law also permits spouses to live in prison.) Approximately 877 children lived with a parent in prison, as an alternative to being left homeless. During school vacations the number



of children in prison with parents could double. The national ombudsman, in coordination with the Ministry of Government, issued a statement in 2007 advocating a ban on the practice of children living in prisons.

The standard prison diet was insufficient, and prisoners who could afford to do so supplemented rations by buying food.

The law provides that prisoners have access to medical care, but care was inadequate, and it was difficult for prisoners to get permission for outside medical treatment. Nongovernmental organizations (NGOs) and prisoners reported cases of tuberculosis and HIV/AIDS in the jails. However, affluent prisoners could obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons. Inmates who could pay had access to drugs and alcohol, and sometimes they used children to traffic drugs inside the prisons.

There were 7,433 inmates (6,541 men and 892 women) in facilities designed to hold 4,700 prisoners. There were separate prisons for women, except for Morros Blancos Prison in Tarija, where men and women shared facilities. Conditions for female inmates were similar to those for men; however, overcrowding at the San Sebastian women's prison in Cochabamba was worse than in most prisons for men.

According to Ministry of Government officials, 668 convicted juveniles (16 to 21 years old) were not segregated from adult prisoners in jails. According to interviews, adult inmates sometimes abused the juvenile prisoners. Rehabilitation programs for juveniles or other prisoners were scarce to nonexistent. Pretrial detainees were held with convicted prisoners.

The government generally permitted prison visits by independent human rights observers, judges, and media representatives, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, there were cases of security forces seizing and holding individuals under legally questionable circumstances.

On November 18, police arrested Betty Aponte Justiniano for showing a lack of respect to Presidency Minister Juan Ramon Quintana and for subsequently failing to respond to a request to appear in front of government investigators. Police detained Aponte for 21 hours with her three daughters before a judge released her with the requirement that she report weekly to the government investigator's office. Aponte allegedly insulted Quintana on September 11 by coarsely asking him how long he would spend in jail for his alleged role in a contraband scandal (see section 1.c.). Opposition Senators Paulo Bravo and Roger Pinto said the arrest was a political reprisal, that Aponte was held at Quintana's behest, and that she never received a required written request from investigators to report to court.

Jorge Melgar Quete remained in a La Paz jail awaiting trial after his October 2008 arrest for publicly calling for the "liquidation" of President Morales. The opposition maintained Melgar was jailed for disseminating video of Presidency Minister Quintana calling for the "political burial" of then-Pando prefect Fernandez.

On June 18, Reinaldo Bayard was released from prison on bail as investigations continued over his role in the September 2008 explosion of a government-owned gas pipeline in Tarija Department.

*Role of the Police and Security Apparatus.*—The national police have primary responsibility for internal security, but military forces may be called upon for help in critical situations. The national police disciplined officers by issuing 1,179 administrative sanctions through December 1. Prosecutors were sometimes reluctant to prosecute security officials for alleged offenses committed while on duty, in part because they relied on the Judicial Technical Police to investigate its own officers. NGOs charged that several investigations into potential human rights violations by the military stalled or proceeded slowly due to an administrative policy prohibiting the military from commenting on its activities, a policy that can be overruled by civilian judges. Police corruption was a significant problem, partially due to low salaries and lack of training, although no reliable statistics existed to quantify the depth of the problem.

*Arrest Procedures and Treatment While in Detention.*—Arrests generally were carried out openly, but there were credible reports of arbitrary arrests and detentions.

The law requires an arrest warrant, and the police must inform the prosecutor of an arrest within eight hours. The law requires that a detainee see a judge within 24 hours (except under a declared state of siege, in which a detainee may be held for 48 hours), at which time the judge must determine the appropriateness of continued pretrial detention or release on bail and must order the detainee's release if the prosecutor fails to show sufficient grounds for arrest. Credible reports indicated that in some cases detainees were held for more than 24 hours without court approval.

More than 73 percent of detainees awaited sentencing, but the courts provided release on bail for some detainees. Judges have the authority to order preventive detention for suspects deemed a flight risk. If a suspect is not detained, a judge may order significant restrictions on the suspect's movements.

Detainees generally had prompt access to their families and were allowed access to lawyers, but approximately 70 percent could not afford legal counsel, and public defenders were scarce and overburdened.

During the year the government provided 112 police officers in-depth human rights training, and provided 381 cadets and other police officials instruction in legal procedure that featured human rights instruction as well. Led by MAS Deputy Elizabeth Salguero, the Congressional Human Rights Commission worked with the Bolivian National Police to organize an international workshop on the rights of women police officers and provided training for 1,975 female officers.

Denial of justice through prolonged detention remained a problem. Although the law establishes that a case's investigatory phase cannot exceed a maximum of 18 months and that the trial phase cannot exceed three years, some suspects were held in preventive detention longer than the legal limits. If the investigatory process is not completed in 18 months, the detainee may request release by a judge; however, judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures kept some persons jailed for more than 18 months before trial.

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

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, but the judiciary was widely considered corrupt, overburdened, and weakened by vacancies at its highest levels.

There are three levels of courts within the criminal court system: trial courts, superior courts, and the Supreme Court. Superior court review is restricted to a review of the application of the law. The Supreme Court may hear appeals in general, but review is restricted to cases involving exceptional circumstances. Three other bodies forming part of the judicial branch are the Constitutional Tribunal, National Electoral Court, and Judicial Council.

The Supreme Court functioned throughout the year, but legal investigations undertaken by the lower house of Congress led to impeachment hearings against several justices. At year's end, Supreme Court President Eddy Fernandez and six other justices faced suspension and possible impeachment. Fernandez labeled the investigations a direct, partisan attack by the government on the Supreme Court. Government representatives countered that several justices were politically aligned with the opposition and were abusing their positions by slowing or halting justice in key cases.

The Supreme Court also faced a backlog of more than 5,000 pending requests, some dating back to 2003, which justices said they had not addressed due to vacancies on the Court. The Supreme Court functioned for most of the year with only seven of 12 positions filled.

The Constitutional Tribunal is an independent institution and has original and appellate jurisdiction on constitutional matters. The Tribunal is the country's highest authority on constitutional matters and is separate from the Supreme Court, which is the highest authority on all other legal matters.

The Constitutional Tribunal, which normally functions with five regular members and five alternates, did not operate for most of the year, as its final magistrate, Silvia Salame, resigned on May 25. Tribunal magistrates, including Salame, charged that government-affiliated social groups harassed tribunal members to force them to resign to remove judicial oversight of constitutionally questionable government actions. A deadlock between the MAS-controlled lower house and the opposition-controlled senate prevented agreement on replacement magistrates, leaving the tribunal empty. According to the Inter-American Commission on Human Rights (IACHR), at the end of the year the tribunal had a backlog of more than 4,400 cases, affecting an estimated 29,000 persons.

The National Electoral Court is the final authority on all matters relating to elections. Although it operated with only three of five members, it met regularly, was able to form a quorum, and signaled its independence from the executive branch through a variety of rulings and initiatives.

The Judicial Council, a legal oversight body created to fight corruption and malpractice, was unable to form a quorum and did not make judgments during the year. The council faced a backlog of more than 100 disciplinary cases.

In addition to the foregoing, the law also recognizes the conflict-resolution (community justice) traditions of indigenous communities, which are, in fact, practiced

in many communities, provided they respect the right to life and do not conflict with the rights and provisions established under the constitution.

There is also a military justice system: it generally was susceptible to senior-level influence and tended to avoid rulings that would embarrass the military. When a military member is accused of a crime related to his military service, the commander of the affected unit assigns an officer to conduct an inquiry and prepare a report. The results are forwarded to a judicial advisor, usually at the division level, who then recommends a finding of innocence or guilt. For major infractions the case is forwarded to a military court, except that military personnel are supposed to be tried in civilian courts for human rights violations.

*Trial Procedures.*—Defendants have constitutional rights to a presumption of innocence, to a speedy and public trial by jury, to remain silent, to have an attorney, to confront witnesses, to present evidence on their own behalf, to due process, to an appeal, and to confront legal charges with government prosecutors before a formal court process is initiated.

In practice the rights to an attorney and to a speedy trial were not protected systematically, although the Criminal Procedures Code facilitated more efficient investigations, transparent oral trials, and credible verdicts. According to the Public Defender's Office, its staffing for the country's nine departments included only 55 public defenders and 11 legal assistants. According to a study by the IACHR released December 16, only 55 percent of municipalities had judges, 23 percent government investigators, and 3 percent public defenders.

The law provides for a system of transparent oral trials in criminal cases, requires that no pretrial detention exceed 18 months without charges, provides for a maximum period of detention of 24 months in cases in which a sentence is being appealed, and mandates a three-year maximum duration for a trial. The law provides that the prosecutor is in charge of the investigative stage of a case and must give suspects an opportunity to confront charges before a trial formally begins.

The prosecutor instructs police regarding witness statements and evidence necessary to prosecute. The prosecutor pursues misdemeanor cases (with possible sentences of less than four years) before a judge of instruction and felony cases (with possible sentences of more than four years) before sentencing courts, both of which feature a five-member panel that includes three citizens and two judges.

*Political Prisoners and Detainees.*—The opposition alleged that former Pando Prefect Fernandez and three others were held as political prisoners, while the government maintained they were being held legally under judicial order (see section 1.d.) The government allowed Fernandez to receive visitors, including international monitors, but did not allow press to enter the prison to interview Fernandez as part of his national election campaign.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters. The law provides for criminal remedies for human rights violations, and at the conclusion of a criminal trial, the complainant can initiate a civil trial to seek damages. Administratively, the ombudsman for human rights can issue resolutions on specific human rights cases, which the government may enforce.

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

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press. Although the government generally respected these rights, it maintained an antagonistic relationship with the press. Opposition members charged President Morales and government officials with making disparaging statements regarding the press, politicizing state-produced media content, and taking actions designed to restrict independent media or encourage self-censorship.

The number of media outlets, including printed press, television, and radio, was extensive, and airing of various viewpoints, many expressing opposition to the government, continued. Radio and television stations generally operated freely. However, in rural areas state radio was often the only available media source.

The law provides that persons found guilty of insulting, defaming, or slandering public officials for carrying out their duties may be jailed from one month to two years. Insults directed against the president, vice president, or a minister increase the sentence by half. Journalists accused of violating the constitution or citizens' rights are referred to the 40-person Press Tribunal, an independent body authorized to evaluate journalists' practices and apply sanctions.

Progovernment and antigovernment groups criticized and attacked each other. The Inter-American Press Association (IAPA) reported on November 9 that there had been 112 attacks on journalists since May 1.

In its 2009 Freedom of the Press report, NGO Freedom House characterized the country's press as "partly free." Freedom House reported that "significant slides continued" in the country "as attacks and official rhetoric against the media escalated."

On January 22, President Morales introduced the state-run newspaper *Cambio*, which he said would "halt the aggressive actions and lies of the private media." The government maintained that the majority of press outlets were owned by persons or groups hostile to the government, who used their media outlets to call for regime change.

President Morales at times allowed only international press and domestic state-run media to ask questions during press conferences. On May 27, President Morales asked journalists to "educate themselves and behave more like the foreign press" instead of "looking like a bunch of screeching chickens" during press conferences.

The IAPA was generally critical of the government for "undermining" the press, for sanctioning verbal and physical attacks against journalists that it feared could lead to self-censorship, and for contributing to a climate of polarization. However, the IAPA also stated on May 27 that "freedom of press definitely exists."

On March 24, the government sued leading daily newspaper *La Prensa* for slander for publishing a story linking President Morales and Presidency Minister Juan Ramon Quintana to a plan to smuggle 33 truckloads of contraband into Brazil. *La Prensa* editors rejected the claim and said they considered the trial an attempt to silence the press. The case had not been resolved at year's end.

On September 3, police physically attacked and fired shots at a news reporter and a camera operator when they tried to film the arrest and transfer of farm owner Nelson Vaca, whom the government accused of misusing and invading government property. A government representative condemned the police action and announced that the officers would be investigated and sanctioned as appropriate. On September 8, the government dissolved the police unit involved in the attack.

Although the case remained open, there were no results from an investigation into the December 2008 bombing of newspaper *El Potosi*.

According to local NGO UNIR, from October 2007 through June 2009, 280 cases of violence against journalists occurred, with only two resulting in judicial sanctions.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that in 2008 there were 10 Internet users per 100 inhabitants.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of peaceful assembly, and the authorities generally respected this right in practice. While the law requires a permit for most demonstrations, security forces rarely enforced the law, and most protesters demonstrated without obtaining permits, frequently blockading major thoroughfares and highways.

While most demonstrations were peaceful, occasionally demonstrators carried weapons, including clubs, machetes, firearms, and dynamite. Security forces frequently (police and on occasion the military) were called upon to break up protest groups carrying weapons or threatening government and private facilities.

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the government generally respected this right in practice. Under the constitution promulgated during the year, the state is independent from religion, and Roman Catholicism is no longer the official religion.

Tension continued between the government and the Catholic Church's leadership. President Morales occasionally and vigorously objected to what he characterized as the Catholic Church leadership's overtly political role in state affairs, referring to the Church as his "enemy"; however, his comments did not lead to restrictions on religious freedom in practice.

On August 20, the government signed a five-year framework agreement with the Catholic Church, which affirms freedom of religion and outlines the Church's continued role in providing education, health, and other social services. The Church hailed the signing of the agreement as a sign of improved relations.

*Societal Abuses and Discrimination.*—There were no reports of societal abuse or discrimination, including anti-Semitic acts. There was a small Jewish community of approximately 650 persons.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. However, throughout the year both progovernment and opposition protesters prevented movement within the country by blockading major highways, as did trade and industry groups. Several hundred thousand citizens lacked basic identity documents, which prevented them from obtaining international travel documents and accessing other government services. However, some experts estimated the number of citizens lacking documents had decreased due to government efforts. The government cooperated with the Pastoral de Movilidad Humana, which is the local representative of the Office of the UN High Commissioner for Refugees (UNHCR), and other humanitarian organizations in assisting refugees and asylum seekers. In law/practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The law prohibits the forced exile of citizens, and the government did not employ the practice.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government's refugee department, established in January 2008 to record and process all cases, continued to collaborate with the UNHCR and improved its performance in processing cases.

The UNHCR reported that the recognized refugee population in the country was more than 673 persons and steadily increasing. The government completed processing and agreed to provide refugee protection in 84 pending cases, with seven older cases still under review, an improvement over the prior year. There were 39 new applications during the year.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage. Many citizens of voting age, particularly in rural areas, lacked the identity documents necessary to vote, although government efforts reduced this number significantly. A broad spectrum of political parties and citizens' groups functioned openly. Elections for national offices and municipal governments are scheduled every five years.

The National Electoral Court undertook a significant effort to create a biometric electoral register in advance of December elections. The new electoral register increased the number of eligible voters by almost two million persons, to more than five million, and also increased confidence in the integrity of the register.

*Elections and Political Participation.*—Monitoring groups from the Organization of American States, EU, and the Carter Center all proclaimed the December 6 national presidential and legislative elections peaceful, free, and fair. Implementation of a new biometric electoral register greatly reduced accusations of fraud. There were no reports of significant violence.

The European Union monitoring mission criticized the government for inappropriately using state-owned media to provide significantly more coverage of the government's campaign than that of all opposition groups combined. They also reported that the absence of a functioning Constitutional Tribunal limited candidates' legal protections: "The lack of the Constitutional Tribunal reduced the instruments to protect the fundamental rights of candidates who are under investigation for crimes before judicial decisions and citizens in general from resolutions made by the electoral administration."

Every second candidate on municipal election ballots must be a woman, a requirement that had increased female representation to approximately 30 percent of municipal council positions. Before the December 6 elections, there were 23 women among Congress's 157 deputies and senators and three female ministers in the 18-member cabinet. The number of indigenous members of Congress was estimated at

17 percent. After the elections the percentage rose sharply, with 162 women among Congress's 332 total members, and 50 among the 166 titular representatives.

The constitution and electoral law set aside seven special indigenous districts to increase indigenous political participation in the Plurinational Assembly (Congress). President Morales considered himself indigenous. Two of the nine departmental prefects, including one woman, were indigenous.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials in the executive, legislative, and judicial branches of government often engaged in corrupt practices with impunity. Laws to combat corruption and promote transparency include the Financial Administration and Control Law, the State Employees Statute Act, and the Sworn Declaration of Property and Income Law. A cabinet-level presidential appointee is empowered to investigate corruption at any level in any branch of government. The Judicial Council, a legal oversight body, did not function during the year (see section 1.e.).

According to the World Bank's 2009 worldwide governance indicators and Transparency International's 2009 Corruption Index, government corruption and lack of transparency were serious problems. Transparency International indicated that corruption worsened during the year.

An investigation into the January 27 killing of an oil executive and robbery of briefcases containing \$450,000 led to a corruption scandal involving the head of the state petroleum company, Santos Ramirez, a cofounder of the MAS party and close adviser to the president. After evidence emerged that the money was an illegal payment, Morales fired Ramirez, who was subsequently arrested. On November 25, prosecutors formally presented six corruption-related charges against Ramirez, with a potential prison sentence of one to six years.

On April 18, the government approved a purchase for 15.27 million bolivianos (\$2.16 million) of land in Santa Cruz Department as part of a proposed mining operation. On September 29, government investigators accused the government's executive in charge of the project, Guillermo Dalence, of illegally profiting from the sale. The minister of government transparency and anticorruption asserted that the land was valued at 325,000 bolivianos (\$46,000). Dalence responded that President Morales, Vice President Garcia Linera, and other top government officials knew the details of the purchasing agreement, including the sales price. The finance minister subsequently blamed the national mining union (COMIBOL) of compliance mismanagement and of hiding the correct valuation of the lands from top government officials. Investigations continued at year's end.

After investigating the December 2008 case in which Presidency Minister Juan Ramon Quintana was accused of collaborating to smuggle 33 truckloads of contraband into Brazil, on May 7 the lower house of Congress dismissed the charges and exonerated Quintana.

A patchwork of laws requires public officials to report potential personal and financial conflicts of interest. Cases involving allegations of corruption against public officials require congressional approval before prosecutors can initiate legal proceedings.

There were no laws providing access to government information.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views; however, NGOs and the human rights ombudsman complained that government security forces and ministries occasionally refused to cooperate with their investigations.

The human rights ombudsman is a position with a six-year term established in the constitution. Congress chooses the ombudsman via a required two-thirds majority vote. The ombudsman is charged with providing oversight of the defense and promotion of human rights, specifically to defend citizens against government abuses. The ombudsman operated without party influence and with adequate resources from the government and foreign NGOs. The ombudsman issues annual reports, and the government usually accepted his recommendations. The lower house of Congress includes a permanent commission on human rights, which proposes laws and policies to promote human rights. Congressional deputies sit on the commission for one-year terms.

In the aftermath of the April 16 killing of three alleged international terrorists in Santa Cruz (see section 1.a.), President Morales initially rejected calls by the governments of Hungary, Ireland, and Croatia for an international investigation but subsequently authorized the police to cooperate with investigators from the three countries. An Irish government investigation concluded the postmortem on one of the alleged terrorists, Michael Dwyer, was incomplete.

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

The new constitution explicitly prohibits discrimination based on race, gender, language, sexual orientation, or social status. According to the human rights ombudsman, there was significant discrimination against (in descending order) persons with HIV/AIDS, indigenous persons, gay persons, and women.

*Women.*—Rape was a serious and underreported problem. The law defines two types of criminal cases. In private criminal matters, the victim brings the case against the defendant; in public criminal matters, a state prosecutor files criminal charges. The code of criminal procedures makes rape a public crime. The law criminalizes statutory rape, with prison terms of 15 to 20 years for the rape of a child under the age of 14. In cases involving consensual sex with an adolescent 14 to 18 years of age, the penalty is two to six years' imprisonment. Forcible rape of an adult is punishable by sentences ranging from four to 10 years' imprisonment. Sexual crimes against minors automatically are considered public crimes. Spousal rape is not a crime.

Violence against women was also a pervasive and underreported problem. According to the NGO Center for the Information and Development of Women (CIDEM), 70 percent of women suffered some form of abuse. CIDEM noted that the statistics "did not reflect the full magnitude of the problem of violence against women" and that "a great number of women" did not report the aggression they faced on a daily basis.

Family laws prohibiting mental, physical, and sexual violence provide for fines or up to four days in jail, unless the case becomes a public crime subject to the penal code; however, these laws were enforced irregularly. The government took few meaningful or concrete steps to combat domestic violence.

Through November, the police Family Protection Brigade handled 19,182 cases nationally, including 5,037 cases of repeat offenders. However, the police brigade lacked financial support, structural support, and personnel to follow up and pursue all reported cases. Most cases of domestic violence went unreported.

Prostitution is legal for individuals age 18 and older, and there were reports of trafficking in women for the purposes of prostitution and forced labor.

The law considers sexual harassment a civil crime. There were no statistics on the incidence of sexual harassment, but it generally was acknowledged to be widespread.

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

The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Public Health.

The government provided direct cash transfers to expecting and new mothers to defray the cost of prenatal and neonatal care and to reduce the birth mortality rate.

Women were entitled to the same legal rights as men; however, many women were unaware of their legal rights. Women generally did not enjoy a social status equal to that of men. Traditional prejudices and social conditions remained obstacles to advancement. In rural areas traditional practices restricting land inheritance for women remained a problem. The minimum wage law treats men and women equally; however, women generally earned less than men for equal work. Women sometimes complained that employers were reluctant to hire them because of the additional costs (mainly maternal) in a woman's benefits package. The gender gap in hiring appeared widest in the higher education brackets. Most women in urban areas worked in the informal economy and the services and trade sectors, including domestic service and microbusiness, whereas in rural areas the majority of economically active women worked in agriculture. Young girls often left school early to work at home or in the informal economy.

Numerous domestic and international women's rights groups worked to advance women's rights and integrate women into the mainstream of society.

*Children.*—Birth certificates were registered either via a notary's affirmation of the certificate or through testimony of two adults regarding a child's parentage. Registered birth certificates were necessary to obtain national identification cards.

Corporal punishment and verbal abuse were common in schools. Children from 11 to 16 years of age may be detained indefinitely in children's centers for suspected offenses or for their own protection on the orders of a social worker. There also were many children living on the streets of major cities. The UN Children's Fund (UNICEF) estimated that more than 3,700 children and adolescents lived on the streets in the cities of La Paz, El Alto, Santa Cruz, Cochabamba, Tarija, and Sucre.

Child prostitution was a problem, particularly in urban areas and in the Chapare region. There were reports of children trafficked for forced labor to neighboring countries. According to Pastoral de Movilidad Humana, the local representative of the UNHCR, each month between nine and 11 children in the southern part of the country disappeared and were presumed victims of trafficking. Several NGOs had active programs to combat child prostitution.

There were 260 Defender of Children and Adolescents offices to protect children's rights and interests nationwide. The government's plan to combat child labor included a public information campaign against child prostitution and raids on brothels.

*Trafficking in Persons.*—The law prohibits trafficking in persons and specifically criminalizes trafficking in persons for the purpose of prostitution. However, there were credible reports that persons were trafficked to, from, or within the country.

The country was a source for men, women, and children trafficked for forced labor and sexual exploitation to Argentina, Chile, Brazil, Spain, and the United States. Faced with extreme poverty, many citizens became economic migrants, and some were victimized by traffickers as they moved from rural areas to cities and then abroad. Women and children, particularly from indigenous ethnic groups in the Altiplano region, were at greater risk of being trafficked. Children were trafficked within the country to work in prostitution, mines, domestic servitude, and agriculture, particularly on sugarcane and Brazil nut plantations. Weak controls along its extensive borders made the country an easy transit point for illegal migrants, some of whom may have been trafficked. Commercial sexual exploitation of children also remained a problem.

While there were reports that some adolescents were sold into forced labor, it appeared that most victims initially were willing economic migrants who later were trafficked by being duped or coerced into conditions of forced labor.

The law criminalizes trafficking and provides for a prison term of four years, which may be increased to 12 years when the victim is less than 14 years of age. The government investigated 153 cases of trafficking in persons; while there were some arrests, only three cases received formal sentences and the majority of individuals arrested either remained in detention or were out of jail awaiting trial.

The Ministry of Justice, via an interinstitutional committee, has responsibility for combating trafficking. The Ministry of Government, including the National Police and the Immigration Service, the Ministries of Foreign Affairs, Labor, and Sustainable Development, as well as prefectures and municipalities, has secondary responsibility. The human rights ombudsman nonetheless noted that the government had little presence at the borders to control trafficking, and that unauthorized entities and agents issued permission documents for minors to travel abroad.

Some government officials reportedly took bribes to facilitate smuggling and the illegal movement of persons; however, the government did not condone or facilitate trafficking.

The municipal Defender of Children and Adolescents offices, sometimes in cooperation with NGOs, managed scattered assistance programs for victims. La Paz Department and the La Paz city government each operated a shelter for abused and exploited children.

The International Organization for Migration (IOM) and the NGOs Save the Children and Pro-Adolescente conducted public awareness campaigns on trafficking of children.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities and identifies the rights and benefits afforded them. There was no official discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. The government did not effectively enforce these provisions, however, and societal discrimination kept many persons with disabilities at home from an early age, limiting their integration into society. The Law on Disabilities requires wheelchair access to all public and private buildings, duty-free import of orthopedic devices, a 50 percent reduction in public transportation fares, and expanded teaching of sign language and Braille.



The National Committee for Handicapped Persons was responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The human rights ombudsman reported that approximately 70 percent of the population considered racism a problem. There was societal and systemic discrimination against the small black minority, which generally remained at the low end of the socioeconomic scale and faced severe disadvantages in health, life expectancy, education, income, literacy, and employment. The majority of the estimated 35,000 Afro-Bolivians lived in the Yungas region of La Paz Department.

*Indigenous People.*—In the 2001 census, approximately 62 percent of the population over 15 years of age identified themselves as indigenous, primarily from the Quechua and Aymara groups. The IACHR reported that 70 percent of these indigenous people lived in poverty or extreme poverty, with little access to education or to minimal services to support human health, such as clean drinking water and sanitation systems. The government embarked on a wide-ranging program to increase access to potable water and sanitation in rural areas where indigenous persons predominated.

Indigenous lands are not demarcated fully, and land reform remained a central political issue. Historically, a majority of indigenous people shared lands collectively under the “ayllu” system, a system that was not legally recognized during the transition to private property laws. Despite laws mandating reallocation and titling of lands, recognition and demarcation of indigenous lands have not been fully accomplished. Indigenous people protested outside exploitation of their resources. In 2007, the UN Declaration on the Rights of Indigenous People was adopted as law, and states that indigenous peoples have the right to control natural resources in their territories.

Indigenous peasants illegally occupied several private properties, often with the backing of the Landless Movement. Since 2007 at least seven illegal seizures of mines by campesinos have been reported. On September 22, campesinos from Oruro Department took the Kori Kollo mine from the Inti Raymi Company, demanding payment for their lands, as well as compensation for environmental damages and the use of original indigenous lands. Inti Raymi halted operations, evacuated its workers, and presented a legal complaint to resolve the conflict. The case was ongoing at year’s end.

Indigenous people continued to be underrepresented in government and politics and bore a disproportionate share of poverty and unemployment. Government educational and health services remained unavailable to many indigenous groups living in remote areas. The government tried to improve the situation with the delivery of monthly payments of 100 to 200 bolivianos (\$14 to \$28) to the elderly and similar funding for more than one million children to attend school.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law prohibits discrimination based on sexual orientation, including by police, and citizens are allowed to change their name and gender on their official identity cards. However, societal discrimination against gay, lesbian, bisexual, and transgendered persons was common and noted in local media editorials. Organizations advocating for lesbian, gay, bisexual, and transgender persons existed and marches occurred, including a small annual gay pride parade. One student was reportedly expelled from high school for being gay, although school authorities denied that was the reason for the expulsion.

*Other Societal Violence or Discrimination.*—The human rights ombudsman reported that persons with HIV/AIDS faced pervasive discrimination. There were few if any registered acts of violence against persons with HIV/AIDS. No formal government programs existed to combat HIV/AIDS discrimination.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—While the law allows workers to form and join trade unions, in practice this right was limited due to inefficient labor courts and inadequate government regulation. Approximately 25 percent of workers in the formal economy, which employed an estimated 30 percent of all workers, belonged to unions.

Workers may form a union in any private company of 20 or more employees; however, the minimum requirement of 20 workers proved a heavy restriction, as an estimated 72 percent of enterprises had fewer than 20 employees.

Public-sector workers also have the right to form unions. The law requires prior government authorization to establish a union and confirm its elected leadership, permits only one union per enterprise, and allows the government to dissolve unions by administrative fiat.

The central government had close ties with certain umbrella labor organizations such as the Central Workers Union of Bolivia (COB) and the Confederation of Farm Workers (CSUTCB). The government exerted pressure on national leadership and local chapters of many of these organizations and funded parallel chapters in areas where the government had less influence. As one example, after disagreements with the leadership of the CSUTCB, the MAS funded a parallel organization in many departments. Although the COB officially recognized the first CSUTCB leadership, the MAS heavily funded the alternative group, and many media outlets ceased to refer to the first CSUTCB group or its leadership.

The law provides most workers with the right to strike but requires unions to seek prior government mediation; the law requires the same of employers before they initiate a lockout.

Public service employees, including those in banks and public markets, are prohibited from striking; despite this, workers in the public sector (including teachers, transportation workers, and health care workers) frequently went on strike and were not penalized for such strike activities. Solidarity strikes are illegal, but the government neither prosecuted nor imposed penalties in such cases.

*b. The Right to Organize and Bargain Collectively.*—The law provides workers the right to organize and bargain collectively; however, collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the government, was limited. Most collective bargaining agreements were restricted to wages.

The law prohibits antiunion discrimination and requires reinstatement of employees illegally fired for engaging in union activity. The National Labor Court handles complaints of antiunion discrimination, but it can take a year or more to rule due to a significant backlog of cases. The court ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders stated that problems often were moot by the time the court ruled.

There are no special laws or exemptions from regular labor laws in special duty-free zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, the practices of child apprenticeship and agricultural servitude by indigenous workers continued, as did some alleged individual cases of household workers effectively held captive by their employers.

In many cases Guarani families worked land owned by landlords in exchange for housing and food but were not paid the minimum wage. As a result they incurred large debts to their landlords and were not permitted to leave the property without satisfying their debt. Many of these families lived in very poor conditions, without water, electricity, medical care, or schools.

There were victims of forced labor, mostly indigenous, harvesting Brazil nuts in Beni Department. The work was seasonal, lasting approximately three months per year. During that time landlords sold basic foodstuffs to workers at inflated prices; workers subsequently incurred large debts and were not permitted to leave the property until the debts were satisfied. Similar conditions existed in the sugar, cattle, corn and peanut industries in Santa Cruz Department.

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

The Ministry of Labor is responsible for enforcing child labor provisions but did not enforce them throughout the country. According to the International Labor Organization, 313,529 children between the ages of seven to seventeen work in Bolivia, and approximately 142,000 are girls. Although the law prohibits persons under 18 years of age from work in the sugarcane fields, approximately 10,000 rural migrant children (7,000 of whom were under the age of 14) did so. Children worked in forced labor situations in the production of sugarcane and Brazil nuts.

There was also evidence of exploitation of indigenous children in the regions of the Chaco, Beni, and Santa Cruz, and in cities across the country wherever individuals were migrating in from the countryside. Urban children sold goods, shined shoes, and assisted transport operators. Rural children often worked with parents from an early age, generally in subsistence agriculture. Children generally were not

employed in factories or formal businesses but, when employed, often worked the same hours as adults. Children also worked in mining gold, silver, and tin, and in other dangerous occupations in the informal sector.

Narcotics traffickers used children to transport drugs. Child prostitution remained a problem. According to the human rights ombudsman, 3,000 children lived in the streets, many of whom were exploited sexually. The report stated that more than 100,000 children worked eight to 12 hours a day. The IOM estimated that 2,000 girls worked, or were forced to work, as prostitutes.

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

The government devoted limited resources to investigating child labor cases, but NGOs and international organizations such as UNICEF supplemented the government’s efforts.

The government continued its efforts to eliminate child labor in its worst forms, working with NGOs to discourage the use of child labor in the mining and sugar sectors by participating in internationally funded programs to provide educational alternatives to children who otherwise would work in mines or sugarcane fields. Nonetheless, according to the human rights ombudsman, 3,800 children worked in mining.

*e. Acceptable Conditions of Work.*—During the year the government raised the minimum monthly wage to 647 bolivianos (\$92) for the public and private sectors, from 577 bolivianos (\$82) in 2008. The minimum wage did not provide a decent standard of living for a worker and family. Most private-sector workers earned more than the minimum wage. While the minimum wage fell below prevailing wages in most jobs, certain benefit calculations were pegged to it. Many independent workers were part of the informal economy, and did not receive the minimum wage.

Labor laws establish a maximum workweek of 48 hours, limit women to a workday one hour shorter than that of men, prohibit women from working at night, mandate rest periods, and require premium pay for work above a standard workweek. In practice the government did not effectively enforce these laws.

The Ministry of Labor’s Bureau of Occupational Safety has responsibility for protection of workers’ health and safety, but relevant standards were poorly enforced. There were fewer than 30 inspectors in the entire country. While the government did not maintain official statistics, there were reports that workers died due to unsafe conditions, particularly in the mining and construction sectors. A national tripartite committee of business, labor, and government representatives was responsible for monitoring and improving occupational safety and health standards. The Ministry of Labor maintained an office for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions.

Working conditions in cooperative-operated mines remained poor. Miners continued to work with no scheduled rest for long periods in dangerous, unhealthy conditions and earned relatively little for their efforts; some earned less than 12 bolivianos (\$1.70) per 12-hour day. Conditions have changed little in the past decades, as independent miners’ cooperatives lacked the financial and technical resources needed to improve mine infrastructure. The law provides workers the right to remove themselves from dangerous situations without fear of losing their jobs.

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## BRAZIL

Brazil is a constitutional federal republic with a population of approximately 192 million. In 2006 voters reelected President Luiz Inacio Lula da Silva of the Workers’ Party to a second four-year term in a generally free and fair election. While civilian authorities generally maintained effective control of the federal security forces, state-level security forces committed numerous human rights abuses.

The federal government generally respected the human rights of its citizens; however, there continued to be numerous, serious abuses, and the records of several state governments were poor. The following human rights problems were reported: unlawful killings, excessive force, beatings, abuse, and torture of detainees and inmates by police and prison security forces; inability to protect witnesses involved in criminal cases; harsh prison conditions; prolonged pretrial detention and inordinate delays of trials; reluctance to prosecute as well as inefficiency in prosecuting government officials for corruption; violence and discrimination against women; violence against children, including sexual abuse; trafficking in persons; discrimination

against indigenous persons and minorities; failure to enforce labor laws; widespread forced labor; and child labor in the informal sector. Human rights violators often enjoyed impunity.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The federal government or its agents did not commit politically motivated killings, but unlawful killings by state police (military and civil) were widespread.

In many cases police officers employed indiscriminate lethal force during apprehensions. In some cases civilian deaths followed severe harassment or torture by law enforcement officials. Killings by police occurred for various reasons. Confrontations with heavily armed criminals resulted in shoot-outs. Some police accused of killing suspects lacked the training and professionalism to manage deadly force. On other occasions the police behaved as criminals.

On December 8, the nongovernmental organization (NGO) Human Rights Watch issued a two-year study on lethal police violence in which it examined an indicative 51 cases where Rio de Janeiro and Sao Paulo police officers appeared to have executed criminal suspects and reported the deaths as resulting from resisting arrest. To improve the situation, the report recommended police immediately notify authorities of such killings, establish crime-scene protocols, investigate potential cover-up techniques, and prosecute offenders. Rio de Janeiro and Sao Paulo officials responded that training and other corrective steps were under way.

Death squads with links to law enforcement officials carried out many killings, in some cases with police participation. Credible, local human rights groups reported the existence in several states of organized death squads linked to police forces that targeted suspected criminals and persons considered problematic or undesirable by landowners.

The Catholic Church's Pastoral Land Commission (CPT) reported that from January to November there were 20 confirmed killings related to disputes over land, water, and labor, compared with a total of 18 such killings in all of 2008. According to the CPT, for the period from January to November, there were nine killings reported in the north region and four killings and 14 attempted killings in the center-west region. Amnesty International (AI) stated that such violence was often caused by illegal private security companies and illegally armed militias linked to landowners.

Numerous credible reports indicated the continuing involvement of state police officials in revenge killings and the intimidation and killing of witnesses involved in testifying against police officials.

In Rio de Janeiro, the most acute human rights problems involved indiscriminate use of force, by both on- and off-duty police, primarily in the city's poorer northern section. Residents of the city's approximately 1,000 favelas (shantytowns), where an estimated one-third of the population (i.e., approximately three million persons) lived, were at increased risk given the frequency of police actions. According to the Rio de Janeiro-based NGO Global Justice (GJ), impunity and nonaccountability for police actions were serious problems in the metropolis. AI claimed that Rio de Janeiro law enforcement continued to be characterized by large-scale operations in which heavily armed police units "invaded" favelas. AI added that few killings were effectively or independently investigated and that perpetrators were seldom prosecuted successfully.

The Favela Pacification Program, instituted in late 2008 by the Rio de Janeiro State government, registered an initial nine favelas as "pacified" by year's end. Police and government officials pushed drug gang members out of areas they previously dominated, established community policing, regularized public utilities, and indicated intentions to introduce other city services and social assistance. The program reportedly aimed to pacify 30-40 favelas in the next two years.

In October the Rio de Janeiro Institute for Public Security reported 805 killings in the state by police of persons described as "resisting arrest" from January to September, an average of three persons per day, down from a 2007 average of four per day and an 11 percent decrease compared with the same partial-year period in 2008. GJ reported 1,137 killings by police in Rio de Janeiro State in 2008.

The Sao Paulo State Secretariat for Public Security reported that Sao Paulo state police (civil and military) killed 400 civilians in the state from January to September, compared with 353 during the same period in 2008. Cases involving extrajudicial executions were either under police investigation or before the state courts; observers believed that it could take years to resolve such cases. During the year there were reports of multiple killings (called *chacinas*) in Sao Paulo State,

often drug-related and suspected to involve the police; in the Sao Paulo metropolitan region, there were 20 chacinas resulting in 64 deaths.

On January 24, in Pitimbu, Paraiba, masked gunmen shot and killed Manoel Bezerra de Matos Neto, vice president of the Pernambuco branch of the Workers' Party and a human rights advocate. Authorities arrested five suspects in February and August, including military policemen, and at year's end they were in custody pending trial.

On March 26, in Rio de Janeiro, military police killed a 22-year-old man in Morro da Providencia favela. Police asserted the man was armed. Witnesses claimed they were threatened if they testified. At year's end there were no further developments in this case, but the Rio de Janeiro Bar Association Human Rights Commission continued to follow it.

In April in Santa Teresa, Rio de Janeiro, six persons alleged by military police to be involved in drug trafficking were killed in a police operation in Morro da Coroa favela. Four officers faced criminal charges, and there were further developments at year's end.

On July 21, in Sao Paulo, off-duty civil police officer Alfred Stapf shot and killed Edinalva Oliveira da Silva and seriously wounded her child. Stapf and accompanying police technician Alex Sander Pedroni claimed they were chasing a suspect and fired accidentally; civil police internal affairs investigators, however, suspected a police operation to conceal police extortion from a local shop owner. The investigation continued at year's end.

In August in Guaratiba District, Rio de Janeiro, authorities arrested and charged two military police officer brothers for the killings of four persons; at year's end they were in jail pending trial. According to GJ, both officers belonged to a militia, and one (Emmerson Meirelles) was responsible for the state governor's personal security.

In August in Sao Gabriel, Rio Grande do Sul State, military police shot and killed Elton Brumda Silva while removing him and approximately 500 other Landless Rural Workers' Movement (MST) members from a farm, according to the national agrarian ombudsman. MST members alleged that police forced them to sit for hours with hands behind their necks, some on top of ant hills, and that a dispersion bomb burned a child. The State Secretariat for Public Security investigation apparently continued at year's end.

In August authorities arrested retired military police sergeant Jairo Francisco Franco for killing an unknown black male in the greater Sao Paulo area. Franco had been detained in December 2008 for allegedly killing 13 gay men but was released for lack of evidence.

In November NGOs reported that more than 40 deaths occurred during three weeks of military police operations in Rio de Janeiro favela communities following an October 17 helicopter shoot down. Shootouts between police and drug traffickers and between rival gangs caused the killings. On October 22, according to the media, Third Battalion military police officers also broke into a house in the Morro da Cachoeirinha favela and allegedly beat and tortured an 18-year-old man.

In the January 2008 case in Rio de Janeiro of the beating death of Andreu Luis da Silva Carvalho at a detention facility, a prosecutor requested exhumation of the body, which according to the NGO Legal Project had not occurred by year's end. Charges were being considered against several detention facility employees.

During the year police continued investigating, based on ballistic evidence and witness testimony, military policeman Pascoal dos Santos Lima in connection with the killing of military police Colonel Jose Herminio Rodrigues in Sao Paulo in January 2008 while he had been investigating police participation in extrajudicial killings. Authorities had indicted Lima for the killing of Colonel Rodrigues in July 2008, while he was in prison for the 2007 killing of Marisa Ferreira Vaz, but had released him in 2009.

There were no developments in the investigation involving the August 2008 discovery of Andre Lima de Araujo's body after he had been detained in 2007 by police on the outskirts of Guarulhos.

There were no developments in the 2007 chacina cases in Sao Paulo State; they remained under investigation at year's end.

There were no developments in the case of four military police officers and a businessman who were arrested in May 2008 for the 2007 killing of investigative journalist Luiz Carlos Barbon Filho in Porto Ferreira, Sao Paulo, and they remained in custody awaiting trial.

There were no developments, and none were expected, in the investigations of the 2007 joint state-police/national-military operations in Rio de Janeiro's Complexo do Alemao and Vila Cruzeiro favelas that resulted in numerous deaths in police confrontations (according to official accounts) or in summary executions (according to bar association and NGO accounts).

The investigation into police involvement in the August 2007 killings of Aurina Rodrigues Santana, Rodson da Silva Rodrigues, and their 19-year-old son in their Salvador home concluded without indictment of the accused officers.

There were no known developments in the case of five police officers accused of torturing and killing a 15-year-old in 2007 in Bauru, Sao Paulo State. Authorities expelled them from the military police in December 2008 and later freed them pending trial.

In early April, on appeal by the prosecution, the Para State Justice Court reversed the not-guilty verdict of Vitalmiro “Bida” Bastos Moura—a verdict that in May 2008 had overturned his 2007 conviction for the 2005 murder of Catholic nun Dorothy Mae Stang—and ordered his arrest. At year’s end he remained free pending retrial in 2010. Although authorities detained Reginaldo Pereira Galvao, also accused in the murder case, in December 2008 as part of an investigation into whether he forged titles to land where the nun was killed, at year’s end he was also free awaiting trial. The media reported that an assailant shot and injured a key witness in the Galvao case in Anapu, Para State, on November 26. On December 10, Rayfran das Neves Sales, convicted in May 2008 of the murder, waived his right to a new trial.

In September Sao Paulo State’s Fifth Regional Court reopened the death-in-custody case of Manoel Fiel Filho, who was arrested and allegedly tortured in 1976. The official report stated that Filho committed suicide; however, authorities charged a police detective, a specialist, and the medical examiner that performed the autopsy with murder and cover-up. At year’s end there were no further developments.

Lynching by mobs or vigilante groups was common in some regions, especially against those accused of rape or other crimes that they believed went unpunished. For example, in May in Teresina, Piaui, a crowd of 500 persons attempted to invade the police station to lynch a detainee who allegedly killed Pedro Sabino, an innocent bystander to a robbery. In October in the capital of Alagoas, Maceio, an attempted rape suspect avoided lynching when police dispersed a crowd and placed him in custody.

*b. Disappearance.*—There were no reports of politically motivated disappearances. However, GJ reported 5,095 disappearances in 2008 and alleged that police killed many of the individuals.

In May the federal government released *Memories Revealed*, a document said to contain all obtainable information about disappearance cases that occurred during the 1964-85 military dictatorship; the document responded to a 2007 Chamber of Deputies’ Human Rights Committee request.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution prohibits torture and provides severe legal penalties for its use, torture by police and prison guards remained a serious and widespread problem. In August the government’s Special Secretariat for Human Rights (SEDH) acknowledged in its national program launch that police institutions have been historically marked with violence, generating a vicious cycle of insecurity, inefficiency, abuse, torture, and impunity.

Thirteen of the country’s 26 states have formally adhered to the National Plan for the Prevention and Control of Torture, which includes the installation of cameras in prisons and penitentiaries; frequent unannounced visits by prosecutors, public defenders, and NGOs; and videotaping of interrogations.

During the first half of the year, the Sao Paulo State Ombudsman’s Office received seven complaints of torture by police, compared with five during the same period of 2008.

Police continued to abuse transvestite prostitutes in Rio de Janeiro, Belo Horizonte, and Salvador, according to the NGO Bahia Gay Rights Group. Complaints were investigated but rarely resulted in punishment (see section 6).

In Rio de Janeiro, militia members—many of them off-duty and former law enforcement officers—reportedly continued to use physical abuse, degrading treatment, and torture to spread fear and establish control over favela residents.

In June the Federal Police allegedly applied electric shocks to the backs and genitals of five Tupinabas in Ilheus, Bahia, to force their confession to a murder involving a land dispute with a nonindigenous rancher. The five, released from custody the next morning, filed a complaint, and the Justice Minister ordered a Federal Police investigation that continued at year’s end.

In the cases of two O Dia newspaper investigative journalists and their driver who were kidnapped, tortured, and released in Batan favela, Rio de Janeiro, in May 2008, a state court on August 12 convicted two militia leaders (civil police Inspectors Odinei Fernando da Silva and Davi Liberato de Araujo) and sentenced them to 31 years’ imprisonment. Authorities also arrested another individual in December 2008

and provisionally arrested three military police officers (Fabio Goncalves Soares, Marcos Antonio Alves da Silva, and Andre Luiz de Matos) in January 2009 in connection with the same incident, but at year's end there were no further developments reported.

There were no known developments in the case of nine police officers in Sao Paulo charged in 2007 with theft, torture, extortion, beating, and threatening to rape to extort money.

There were no developments during the year, and none were expected, in the illegal-arrest-and-torture case involving Antonio Ferreira Braga in 1993 in Ceara State, although the government had not fulfilled Inter-American Commission on Human Rights (IACHR) recommendations made in 2007.

*Prison and Detention Center Conditions.*—Prison conditions throughout the country often ranged from poor to extremely harsh and life threatening. Abuse by prison guards, poor medical care, and severe overcrowding occurred at many facilities.

Prison officials frequently resorted to brutal treatment of prisoners, including torture. Harsh or dangerous working conditions, official negligence, poor sanitary conditions, abuse and mistreatment by guards, and lack of medical care led to deaths in prisons. Poor working conditions and low pay for prison guards encouraged widespread corruption. Prisoners who committed petty crimes were held with murderers. According to the National Penitentiary Department, in June there were 469,807 prisoners, including 30,519 women, incarcerated in a prison system designed for approximately 300,000. The SEDH reported 14,704 individuals under age 18 confined in 2006. Of those held, nearly 43 percent were in detention awaiting trial or judgment.

In Rio de Janeiro and most other states, pretrial detainees were often held together with convicted prisoners due to overcrowding.

According to the Ministry of Justice, approximately 2,000 prisoners were involved in riots in federal prisons in 2008. The federal government stopped providing such statistics thereafter, but newspapers reported major prison riots in July and August in Sao Paulo, Bahia, and Para states involving approximately 270 prisoners.

The Catholic Church's Ministry for the Incarcerated in Sao Paulo State reported that authorities used police stations in the state capital as prisons, increasing the risk of mistreatment and torture. The church ministry also reported continued inadequate rates of penitentiary construction. The state's criminal justice system as a whole continued to sentence more defendants to prison or detention each month than it released and also often held inmates beyond their sentences.

On April 16 and 17, the National Council for Criminal and Penitentiary Policy reported seriously deficient conditions at two detention facilities in Serra, Espirito Santo. In Cascuvi, 25 individuals guarded more than 1,170 prisoners crowded into three spaces lacking individual cells in a facility designed for 370 persons. The report described the absence of electricity and showers, privacy, legal counsel, inmate advocacy, and reformative activity; rodents and pests roaming freely; drinking water provided once daily; food served sporadically; limited medical access; inmate skin disease; and allegations of inmate-on-inmate attacks. In Serra, the Novo Horizonte facility designed for 144 inmates held nearly 400 individuals, with approximately 40 crowded into each metal ship-container cell. The council particularly noted open sewers and sewage and active use of a windowless cell (known as "the microwave" for the temperatures reached inside); a judicial decision had stopped usage earlier, but it was reactivated and observed holding 23 prisoners.

On June 1, the IACHR granted precautionary measures for inmates of the Polinter-Neves penitentiary in Sao Goncalo, Rio de Janeiro State, because of inadequate access to medical services and asked the government to ensure adequate medical care, reduce overcrowding, and report its actions to the IACHR.

After a June 2008 congressional investigative report ranked it as the third worst prison in the country, authorities reconstituted the Contagem prison in Minas Gerais as a temporary prisoner-holding facility for a maximum of 96 prisoners and, according to a media report during the year, substantially improved inmate living conditions and access to legal, medical, and psychological assistance.

An October court ruling ordered the Minas Gerais State government to compensate the families of the 25 inmates killed during the 2007 gang dispute and resultant fire in an overcrowded jail in Ponte Nova. Each family reportedly should receive approximately 20,000 reais (\$11,500) plus a monthly minimum-wage payment until the date each victim would have reached age 65. There were no developments reported concerning the indictments of 23 individuals for allowing weapons into the jail and failing to respond adequately to the incident.

The Women's Penitentiary of Santana in Sao Paulo, a former men's facility remodeled for women, continued in precarious condition, although health care improved in response to human rights organization requests, contaminated water

problems were rectified after NGOs lodged protests (according to Instituto Pro-Bono), and the kitchen area and food quality were improved (according to NGO sources who visited during the year). However, the facility remained overcrowded as of December, with 2,800 women occupying space designed for 2,400 and three of the nine prisoner areas closed due to poor conditions. Further health-care-unit improvements reportedly were needed, as were programs to promote inmate educational and social development.

Rio de Janeiro and Sao Paulo states and the Federal District provided separate prison facilities for women; elsewhere, women were held with men in some facilities. Male officers who served in women's prisons often abused and extorted the prisoners for sexual favors.

The media reported that throughout the country adolescents were jailed with adults in prison units without bathrooms and in inhumane conditions. Insufficient capacity in juvenile detention centers was widespread.

While authorities attempted to hold pretrial detainees separately from convicted prisoners, overcrowding often required holding convicted criminals in pretrial detention facilities. In addition abuses continued in municipal jails and detention centers throughout the country.

The investigation into reports in 2007 of prisoners being forced to be sex slaves and have their actions recorded on camera in a Santa Rita de Caldas, Minas Gerais, prison absolved the officer on duty of any crime or negligence. However, the Prosecutor's Office ordered the jail closed and sought a ruling against the Minas Gerais State government, an action that was pending at year's end.

There were no developments reported concerning the March 2008 indictments of 12 persons, including 10 police officers, for the 2007 repeated sexual abuse of a 15-year-old girl in a cell in Abaetetuba, Para. The accused remained free, and authorities placed the girl and her relatives into a witness protection program. At year's end the judge who knew about the girl's situation was under investigation by the National Council of Justice and had been transferred to another municipality in Para.

Government policy continues to permit prison visits by independent human rights observers; however, in practice authorities did not always follow this policy. An NGO Conectas representative confirmed that it was at times difficult for outside observers to obtain permission to visit prisons.

Human rights advocates visiting juvenile detention centers in Sao Paulo reported continuing improvements in their general conditions. The Center for the Socio-Educational Care of the Adolescent Foundation continued to dismantle large out-of-date detention centers prone to inmate violence and build smaller facilities for easier management of the inmate population.

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

*Role of the Police and Security Apparatus.*—The Federal Police, operating under Ministry of Justice oversight, is small, primarily investigative, and plays a minor role in routine law enforcement. Most police forces fall under the control of the states, where they are divided into two distinct units: The civil police are plain-clothes officers with an investigative role, while the military police are uniformed officers charged with maintaining order and preventing crime. Although the individual state governments control their respective military police forces, the constitution provides for calling them into active military service in the event of an emergency, and they maintain some military characteristics and privileges, including a separate judicial system.

In Rio de Janeiro's favelas, militia groups often start as off-duty and former law enforcement officers take community policing into their own hands. However, many militia groups come to resemble drug-trafficker groups in intimidating residents and conducting illegal activity such as extorting protection money, imposing tribute fees, and providing pirated utility services. The number of militias with police participation continued to increase. Punishing police involved in militia activity was difficult due to solidarity and fear of reprisals. Police often did not operate in militia-dominated communities. State authorities estimated that militias have taken over nearly 100 favelas from drug-trafficker control, mostly in the city's west.

In March a court convicted former military police officer Luciano Guinancio and sentenced him to nine years in prison for orchestrating the random killings by a militia group of seven residents in Rio de Janeiro's Barbante favela in August 2008. In June four relatives of the main witness in the case went missing.



*Arrest Procedures and Treatment While in Detention.*—With the exception of arrests of suspects caught in the act of committing a crime, arrests must be made with a warrant. The use of force during an arrest is prohibited unless the suspect attempts to escape or resists arrest. Suspects must be advised of their rights at the time of arrest or before being taken into custody for interrogation.

Authorities generally respected the constitutional right to a prompt judicial determination of the legality of detention. Detainees generally were informed promptly of the charges against them. The law permits provisional detention for up to five days under specified conditions during a police investigation, but a judge may extend this period. A judge may also order temporary detention for an additional five days for paperwork processing. Preventive detention for an initial period of 15 days is permitted if police have indications that a suspect may leave the area. This may be renewed under specific circumstances. Occasionally detainees—typically poor and uneducated—were held longer than the provisional period.

Defendants arrested in the act of committing a crime must be charged within 30 days of arrest. Other defendants must be charged within 45 days, although this period may be extended. In practice the backlog in the courts almost always resulted in extending the period for charging defendants. Bail was available for most crimes, and defendants facing charges on all but the most serious crimes had the right to a bail hearing. In general prison authorities allowed detainees prompt access to a lawyer; indigent detainees had the right to a lawyer provided by the state. Detainees were also allowed prompt access to family members.

Human rights observers stated that civil and uniformed police regularly detained persons illegally to extort money or favors. In May the new Sao Paulo State secretary for public safety suspended 120 police officers from narcotics and organized-crime units for possible involvement in extortion, corruption, and organized crime.

The law does not provide for a maximum period for pretrial detention, which is defined on a case-by-case basis. Time in detention before trial is subtracted from the sentence.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice; however, the judiciary was underfunded, inefficient, and often subject to intimidation and to political and economic influences, particularly at the state level, a situation that resulted in vigilante action. A number of senior judges remained under investigation nationwide on a variety of charges.

Although the law requires that trials be held within a set period of time, which is defined according to individual circumstances, the nationwide backlog in state and federal cases frequently led courts to dismiss old cases unheard.

The judicial system ranges from courts of first instance and appeals, through courts of second instance and the Superior Court of Justice, to the Federal Supreme Court. States organize their own judicial systems within the federal system and must adhere to basic constitutional principles. There are specialized courts for police, military, labor, election, juvenile, and family matters.

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

After an arrest a judge reviews the case, determines whether it should proceed, and, if so, assigns it to a state prosecutor who decides whether to issue an indictment. The law recognizes the competence of a jury to hear cases involving capital crimes. Judges try those accused of lesser crimes.

Defendants enjoy a presumption of innocence and have the rights to confront and question witnesses and to appeal. A large case backlog hindered the ability of appellate-level courts to ensure fair and expeditious trials.

While the law provides for the right to counsel, the Ministry of Justice estimated that 85 percent of prisoners could not afford an attorney. In such cases the court must furnish a public defender or private attorney at public expense. There were 752 public defenders in Rio de Janeiro State, a personnel deficit of 15 percent. The Public Ministry continued hiring public defenders, but deficits remained in all states.

In May a judicial assistant discovered that Valmir Romario de Almeida, accused of homicide, had spent 11 years in four prisons without being tried. De Almeida was freed 10 days after his situation came to light.

The law mandates that special police courts exercise jurisdiction over state military police except those charged with “willful crimes against life,” primarily homi-

cide. In all but the most egregious cases, police tribunals decided whether or not the killing was willful. As a result civilian courts, which have jurisdiction over killings by police, received very few case referrals involving police killings. In addition the requirement that the initial investigation be carried out by police internal affairs officers increased the potential for long-languishing investigations. The police themselves were often responsible for investigating charges of torture carried out by fellow officers. Long delays in the special military police courts allowed many cases of alleged torture and lesser charges to expire due to statutes of limitations.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—While the justice system provides for an independent civil judiciary, courts were overburdened with significant backlogs and sometimes were subject to corruption, political influence, and intimidation. Citizens have access to bring lawsuits before the courts for human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, but there were reports that police conducted searches without a warrant. Human rights groups, other NGOs, and the media reported frequent incidents of violent police invasions in shantytowns and poor neighborhoods. During these operations police stopped and questioned persons and searched cars, residences, and business establishments without warrants. Victims reported searches without warrants and abusive and violent searches of women. Wiretaps authorized by judicial authority were permitted. The inviolability of private correspondence generally was respected.

From February to April, after three military police officers died, the police conducted a crackdown in Paraisopolis favela, Sao Paulo, using 400 officers, 100 vehicles, 20 horses, four dogs, and a helicopter to search the area repeatedly. One newspaper published interviews of residents who alleged warrantless searches, physical and verbal abuse, and destruction of personal property. The military police department stated that there was no proof of the allegations.

The Federal Police investigation into the alleged 2008 wiretapping of a telephone call between Senator Demostenes Torres and Supreme Court President Gilmar Mendes resulted in the exoneration of former intelligence agency director Paulo Lacerda, whom the president had put on administrative leave in connection with the allegation. The investigation continued at year's end.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the authorities generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The independent media were active and expressed a wide variety of views without restriction.

Criminal as well as other elements, such as political party activists, continued to subject journalists to violence, sometimes specifically because of their professional activities (see also sections 1.a. and 1.c.).

The National Association of Newspapers (ANJ) continued to report cases of imprisonment, aggression, censorship, and failure to respect freedom of the press during the year ending in July. For example, on March 12, men accompanying the brother of the mayor of Sao Goncalo, Rio de Janeiro, attacked the reporting team of the newspaper Extra and destroyed its photographs. On April 15, Minas Gerais State police apprehended photo-journalist Nelson Batista of O Tempo Betim newspaper when he entered a forensic institute building to investigate information about seven bodies there in an advanced state of decomposition.

The ANJ regarded the most serious threat to press freedom to be the growing number of court decisions prohibiting the media from reporting on certain activities. The following examples pertained:

On March 20, Judge Benedito Helder Afonso Ibiapina prohibited the newspaper O Povo from reporting on an illegal gaming case in Fortaleza, Ceara State.

On July 31, Judge Marcio Reinaldo Miranda Braga barred the newspaper A Tarde in Salvador, Bahia State, from reporting about an investigation into the alleged sale of sentences by an appeals court judge.

On July 31, Federal District Appeals Court Judge Dacio Vieira blocked the newspaper O Estado de S. Paulo and its associated Web site from reporting on the Federal Police investigation of alleged corruption by Fernando Sarney, the Senate president's son; the decision also prevented other media in the country from using or citing information already published by the newspaper. O Estado de S. Paulo succeeded on September 15 in having the judge removed due to a possible conflict of

interest, but the reporting bar continued, so the newspaper appealed. On December 10, the Supreme Court dismissed the appeal on technical grounds, and on December 18, Fernando Sarney withdrew the original lawsuit. At year's end the newspaper remained under the reporting bar for a total of 153 days.

On April 30, the Supreme Court ruled that the entire press law dating from the 1964-85 military dictatorship, which had allowed lawsuits and prison sentences against journalists and media companies for allegedly causing moral damage, was incompatible with the constitution. On June 17, the Supreme Court found that requirements from the dictatorship era (for a journalism degree and registration with the Labor Ministry in order to practice journalism) were unconstitutional.

The three journalists in Rio de Janeiro who had their photographs of a mayoral candidate shaking hands with criminals deleted at gunpoint in 2008 were subsequently able to recover and publish the photos.

There were no developments in the killings of journalists highlighted in April 2008 by the Inter American Press Association, including the 2004 killing of radio commentator Jorge Lourenco dos Santos in Santana do Ipanema, Alagoas.

*Internet Freedom.*—There were generally no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that Internet users increased to approximately 34 percent of the country's inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—In January police in Rio de Janeiro distributed to police stations and religious organizations an NGO-prepared Guide to Combat Racism and Religious Intolerance (Freedom Manual). The state's legislature created a religious intolerance hotline in September 2008.

In March vandals threw an improvised explosive device at a Pentecostal church in Juiz de Fora, Minas Gerais, during a service, injuring a parishioner and damaging the building. At year's end the incident remained under investigation, with Ilan Lopes Afonso indicted for the crime but not arrested.

It is illegal to write, edit, publish, or sell books that promote anti-Semitism or racism. The law enables courts to fine or imprison anyone who displays, distributes, or broadcasts anti-Semitic or racist materials and mandates a two- to five-year prison term.

According to the country's Jewish Confederation, there were approximately 125,000 Jewish residents, of whom approximately 65,000 were in Sao Paulo State and 40,000 in Rio de Janeiro State.

There were reports of violence against Jewish persons. Jewish community leaders expressed concern over the continued appearance on Web sites of anti-Semitic material compiled by neo-Nazi and "skinhead" groups. Police and Jewish Federation of Sao Paulo representatives stated that anti-Semitic Web sites and blogs continued to exist. The Jewish Federation of Sao Paulo reported cases of anti-Semitic graffiti, harassment, vandalism, and threats via telephone and e-mail. Occasional anti-Semitic graffiti and anti-Semitic epithets directed at Orthodox Jews were also visible in some of Sao Paulo's traditionally Jewish neighborhoods.

At year's end there were no known developments in the 2005 case of 14 persons charged with attempted murder, gang formation, and racism for attacking three Jewish students in Porto Alegre, Rio Grande do Sul.

The Center for Promoting Islam in Latin America, located in Sao Bernardo do Campo, Sao Paulo State, reported frequent complaints during the year of verbal harassment of Muslim women wearing veils in public.

Practitioners of Afro-Brazilian religions like Umbanda and Candomble experienced discrimination in several states, especially Rio de Janeiro, but the NGO Commission to Combat Religious Intolerance in Rio de Janeiro reported that there were no government efforts at prevention during the year. According to the NGO, Afro-Brazilian religious practitioners were not permitted to visit hospitals or penitentiaries to provide religious assistance to patients or inmates, as were other religious practitioners, and the Rio de Janeiro State government had no office to provide effective assistance to victims of religious intolerance.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice, although there were restrictions on entry into protected indigenous areas.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

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

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. On July 2, the president approved a law that allowed foreigners who arrived in the country illegally by February 1 to apply for a two-year temporary residency; at year's end, approximately 43,000 persons received amnesty under the new law. The largest group of beneficiaries, approximately 17,000, was from Bolivia.

According to the interministerial and interinstitutional National Committee for Refugees (CONARE), of the 4,240 recognized refugees from 75 different countries in the country as of October, the largest numbers were from Angola (1,688) and Colombia (598), two-thirds were women, and 418 were resettled in the country. In addition to officially recognized refugees, there were in 2008 approximately 17,500 de facto Colombian refugees in the country's Amazon region, according to the 2008 World Refugee Survey.

Of the approximately 600 persons that the UNHCR estimated fled to the country from the September 2008 conflict in Pando, Bolivia, CONARE reported that 118 asylum requests were approved.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. Military conscripts may not vote.

*Elections and Political Participation.*—In the 2006 national election generally considered free and fair, Workers' Party candidate Luiz Inacio Lula da Silva won a second four-year term as president.

Political parties operated without restriction or outside interference.

Women have full political rights. The law requires that 30 percent of the candidates registered by each political party must be women. There were nine women in the 81-member Senate and 44 women in the 513-member Chamber of Deputies. There were two women in the 36-member cabinet, two on the 11-member Federal Supreme Court, five on the 33-member Superior Court of Justice, and one on the 14-member Military Superior Court. Women occupied 11.2 percent of elected seats at the state level and 12.6 percent at the municipal level.

There were 17 self-identified Afro-Brazilians in Congress, according to the Black Parliamentary Center. There were three self-identified Afro-Brazilians in the cabinet and one on the Federal Supreme Court.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. The World Bank's worldwide governance indicators reflected that corruption continued to be a serious problem.

Media reports and statements circulated during the year alleging malfeasance, mismanagement, nepotism, and ethics violations involving current and former Senate presidents, other senators, staff, and family members. No formal investigation was underway at year's end (see section 2.a.)

On August 6, a Senate commission of inquiry began investigating allegations of tax and procurement fraud and embezzlement involving the state-controlled oil company Petrobras. In November senators from opposition parties withdrew their participation in the inquiry and claimed it was manipulated by the government majority. At year's end the inquiry continued.

In November videotapes became public of Federal District Governor Jose Roberto Arruda and several of his political allies in state government apparently receiving bribes in past years. At year's end the governor remained in office, and a Federal Police investigation continued.

There were no developments in the 2008 Federal Police investigation of alleged fraudulent public works contracts involving four members of the Chamber of Deputies, 119 cities, and the Comptroller General's Office.

There were also no developments in the 2008 Federal Police investigation into an alleged multiyear financial crimes scheme that included money laundering, tax evasion, conspiracy, and other crimes involving public funds.

The 2008 Federal Police investigation of Romero Menezes, executive director of the Federal Police and its second-ranking official, suspected of leaking information to his brother about a fraud investigation, continued at year's end. Authorities fired Romero Menezes in December 2008 from his executive directorship, and at year's end he was awaiting trial in a Para State court.

There were also no developments in the 2008 charging by the Public Ministry of 61 persons—including a former minister of mines and energy, two state governors, and two former state governors—allegedly involved in conspiracy to defraud the government through overpriced public works contracts.

During the year the Supreme Court continued to hear witnesses and collect evidence in cases from 2007 against 40 persons accused of illegal payments to legislators in exchange for support of government legislation.

Public officials were subject to financial disclosure laws. Federal government entities such as the Federal Audit Court, the Federal Controller General, the Public Ministry, the Federal Police, the judiciary, the Department of Revenue and Control of Financial Activities, and the Federal Treasury existed to fight corruption. The agencies identified campaign financing and public spending as sources of financial corruption; however, they had limited powers to function effectively.

The law provides for public access to unclassified government information upon application to the Commission for Public Ethics, although the release of such information was often slow.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Federal officials often were cooperative and responsive to their views. Although federal and state officials in many cases sought the aid and cooperation of domestic and international NGOs in addressing human rights problems, human rights monitors occasionally were threatened and harassed—particularly by members of the state police—for their efforts to identify and take action against human rights abusers.

While most states had police ombudsmen, some NGOs and human rights observers questioned their independence and effectiveness. The ombudsmen's accomplishments varied considerably, depending on such factors as funding and outside political pressure, and they issued no significant reports or recommendations during the year.

The Chamber of Deputies and the Senate have human rights commissions that operated without interference and participated in several activities nationwide in coordination with domestic and international human rights organizations.

On December 21, President Lula issued a decree adopting the Third National Program of Human Rights, which called in part for a bill to be submitted to Congress by April 2010 creating a national truth commission to examine human rights violations during the 1964-85 period of military rule.

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

Although the law prohibits and penalizes discrimination on the basis of race, gender, disability, or social status, discrimination against women, Afro-Brazilians, homosexual persons, and indigenous persons continued.

*Women.*—The federal government continued to operate a toll-free 24-hour nationwide hotline for women. According to annual hotline data recorded by the Special Secretariat of Policies for Women, approximately 30 percent of total calls were from Sao Paulo State. The number of calls received nationwide increased 33 percent compared with the same period in 2008, rising to 401,729. Of the complaints received, 40,857 concerned violence (physical, psychological, moral, sexual, and other), compared with 24,523 such complaints in 2008. Seventy percent of the callers reported being beaten daily, and 12.7 percent, weekly; the majority blamed domestic partners, who were commonly under the influence of alcohol or drugs. Approximately

one-fourth of the women who used the hotline considered themselves mixed-race, were married, and/or attended high school; two-thirds were between the ages of 20 and 40.

Rape, including spousal rape, is a crime punishable by eight to 10 years' imprisonment; however, men who killed, sexually assaulted, or committed other crimes against women were unlikely to be brought to trial. Nationwide annual hotline data included 390 sexual-violence incidents within the total complaints of violence. From January to August, the Sao Paulo State Secretariat for Public Safety registered 1,998 rape cases, compared with 2,562 during the same period in 2008. There was no information available on the numbers of prosecutions or convictions for rape.

According to a nationwide Avon Institute/Brazilian Institute of Public Opinion and Statistics poll conducted in February, 62 percent of women and 48 percent of men knew a woman who suffered from domestic violence. Of those interviewed, 24 percent said that women continue to stay with an abusive partner for economic reasons; 23 percent, for the well-being of children; and 17 percent, because of fear for their lives. Fifty-six percent of those polled lacked confidence that the police or judicial system could protect an abused woman.

Domestic violence remained both widespread and underreported to the authorities. Of the domestic violence complaints registered through the hotline during the year, 52 percent were considered physical violence, and 22 percent were threats. For such cases the law increases the penalty from one to three years in prison and creates special courts. There was no information available on the numbers of prosecutions or convictions for domestic violence.

The federal government stimulated the creation of special courts for domestic and family violence, and according to the National Council of Justice in March, 22 of the 26 states plus the Federal District had such courts. For example, on January 22, Sao Paulo State installed its Special Court of Domestic and Family Violence against Women. The federal government also promoted capacity-building courses for judges.

Each state secretariat for public security operated police stations dedicated exclusively to addressing crimes against women (DEAMs), for a total of 415 countrywide. The quality of services generally varied, and availability was particularly limited in isolated areas. For example, the north and northeast regions, which contained approximately 35 percent of the country's population, possessed only 24 percent of the country's DEAMs. The stations provided psychological counseling, temporary shelter, and hospital treatment for victims of domestic violence and rape (including treatment for HIV and other sexually transmitted diseases) as well as criminal prosecution assistance by investigating and forwarding evidence to courts. There were also 125 reference centers and 67 women's shelters.

In Rio de Janeiro, the city's Center for Studies on Women's Policies (CEPIP) provided assistance to female victims of domestic violence who received death threats. When necessary, victims were sent to specific shelters, which also provided psychological and legal aid. CEPIP operated one shelter (Cora Coralina) with capacity to assist 42 domestic violence victims. In addition to CEPIP, domestic violence victims could obtain assistance at the Center for Women's Support, an initiative of the Rio de Janeiro state government that offered a complaint hotline, shelters, and psychological and legal aid.

The law requires health facilities to contact the police regarding cases in which a woman was harmed physically, sexually, or psychologically in order to collect evidence and statements should the victim decide to prosecute.

Prostitution is legal, but exploiting it through associated activities, such as operating a brothel, is illegal. While no specific laws address sex tourism, it is punishable under other criminal offenses. The government issued a "code of conduct to combat sex tourism and sexual exploitation" and conducted campaigns in the most affected areas. The Federal District and the states of Rio de Janeiro, Bahia, Pernambuco, Espirito Santo, Amazonas, and Parana had laws requiring certain businesses to display signs listing the penalties for having sexual intercourse with a minor. Women's groups reported that prostitutes encountered discrimination when seeking free medical care. Trafficking of women for the purpose of prostitution was a serious problem.

Sexual harassment is a criminal offense, punishable by up to two years in prison. The law encompasses sexual advances in the workplace or in educational institutions and between service providers or clients. In the workplace it applies only in hierarchical situations, where the harasser is of higher rank or position than the victim. Although the law was enforced, accusations were rare, and the extent of the problem was not documented.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination.

Access to information on contraception and skilled attendance at delivery and in postpartum care were generally available in urban, but not in rural, areas. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

There were no developments reported during the year in the case of Aline da Silva Pimentel, an Afro-Brazilian woman who died in late 2002 after complications of birth. Her primary emergency assistance occurred in a Belford Roxo municipal hospital, and she died in a Nova Iguaçu hospital. In 2003 the victim's family filed a suit against the municipality of Belford Roxo and the state of Rio de Janeiro, seeking compensation for wrongful death. In 2008 a petition was filed on the victim's behalf before a UN committee, alleging that her access to emergency obstetric care was blocked and that therefore there was a violation of her rights under the Convention on the Elimination of Discrimination against Women.

Women have the same legal rights as men. A cabinet-level office, the Secretariat for Women's Policy, oversees a special entity charged with ensuring the legal rights of women. Although the law prohibits discrimination based on gender in employment and wages, there were significant wage disparities between men and women. According to the Ministry of Labor and Employment (MTE), women were often paid less than men in the same functions.

The law provides 120 days of paid maternity leave to women and seven days of paternity leave to men. The law also prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates, but some employers sought sterilization certificates from female job applicants or tried to avoid hiring women of childbearing age. Violations of the law are punishable by jail terms of up to two years for employers, while the company may be fined 10 times the salary of its highest-paid employee.

*Children.*—Citizenship is derived from birth in the country or from a parent. According to the SEDH, approximately 12 percent of the children born in the country during the year were not registered, and an estimated total of 400,000 children did not have birth certificates. There were wide registration discrepancies between the more affluent states of the south and southeast and the poorer states of the north and northeast regions of the country. During the year the federal government launched a campaign to increase reported births and standardize certification, focusing on the north and northeast regions and on the more vulnerable and rural populations.

While the law prohibits subjecting any child or adolescent to negligence or abuse, such abuse was a major problem and included rape, molestation, and impregnation of girls by family members. From January to August, the SEDH-operated National Hotline of Sexual Abuse and Exploitation against Children and Adolescents registered 21,714 reports of abuse, approximately the same as for that period in 2008. Approximately 62 percent of the victims were girls; the usual complaints were negligence and sexual violence. Girls also suffered slightly more than boys from physical and psychological aggression. Allegations of abuse of minors and prosecution of crimes against children were not pursued adequately or aggressively.

According to the NGO Children's Network to Combat Violence, which operated three centers in the Sao Paulo area, the number of reported cases of sexual abuse and physical aggression against children tripled from October 2008 to May 2009 due principally to a greater willingness to report. The centers, with 46 social workers, handled 457 abuse cases involving 380 families.

Child prostitution was a problem, with extreme poverty the primary contributor. The Federal Police continued to estimate that upward of 250,000 children were involved in prostitution. The law sets a minimum age for consensual sex of 14 years, with the penalty for statutory rape ranging between 8 and 15 years in prison. The national telephone hotline registered 27,159 reported cases of sexual exploitation of children and adolescents between January and November. A 2006 University of Brasilia study found that approximately one-fourth of the 1,514 tourist destinations frequented by citizens had an active sexual commercial market for children and adolescents and also found, in combination with the SEDH and the UN Children's Fund, commercial sex involving children and adolescents in approximately one-sixth of the country's 5,561 municipalities. The largest percentage of these cases occurred in the northeast, but all regions had reported incidents.

Trafficking in children for the purpose of sexual exploitation was a serious problem. The national hotline, established in coordination between the Federal Police and the Federal Highway Police, received 58 reports during the year of such trafficking, both domestically and internationally.

The Rio de Janeiro civil police identified eight hotels and restaurants involved in a child sexual exploitation network in two city areas. The newspaper O Globo reported in April that drug traffickers and corrupt police officers exploited children

in 11 city areas; authorities indicted military police officers Ailton Neto and Manoel Costa for extorting children who engaged in prostitution to finance their drug addiction, but there were no developments in the case at year's end.

According to the NGO Reference Center on Children and Adolescents (CECRIA), patterns of sexual exploitation of children corresponded to the distinct economic and social profiles of the country's regions. In the Amazon region, sexual exploitation of children took place in brothels that catered to mining settlements. In large urban centers, girls who left home to escape abuse or sexual exploitation often prostituted themselves on the streets to survive. In the cities along the northeast coast, sex tourism exploiting children was prevalent and involved networks of travel agents, hotel workers, taxi drivers, and others who actively recruited children and also trafficked them outside the country. Child prostitution also developed in the areas served by the country's navigable rivers, particularly in ports and at international borders.

There were no known developments in the 2008 Federal Police investigation in Manaus into allegations that a foreign-owned travel company arranged fishing expeditions to the Amazon region that were actually sex tours for foreign pedophiles.

The 2007 investigation by the Human Rights Committee of the Chamber of Deputies ended in December 2008 with the conviction and sentencing of Alderman Roberto Alan de Souza Costa to 12 years in prison for the rape of a 13-year-old girl who was part of a child-prostitution network in Portel, Para State. The case against another alderman, Adson de Azevedo Mesquita, for sponsoring orgies involving adolescents, remained under investigation at year's end with no known developments and none expected. The network involved politicians, business operators, hotel owners, and taxi drivers in the city; child victims who denounced these crimes were threatened and forced into hiding along with their families. At year's end there was also no known information, and none was expected, in the case of the committee investigator killed in suspicious circumstances.

In January a judge released the four persons that authorities arrested in Taquara, Rio Grande do Sul, in 2007 and detained on suspicion of pedophilia and trafficking of children. The judge acted because, although the case remained open, he considered the time already served to have been excessive.

Although the country is not a large-scale producer of child pornography, such material spread during the year on social-networking Web sites. After a 2008 law criminalized the possession of child pornography, the Federal Police conducted in May an operation against child pornography online. There were no known developments after police officers filtered nearly 3,500 tips and carried out 92 search warrants in 20 states and the Federal District to inspect computers and seize illegal material. The penalty for possession of child pornography is up to four years in prison and a fine. Those who produce, reproduce, or offer for sale child pornography or recruit a child to participate in a pornographic production may be imprisoned up to eight years and fined.

The primary federal program to assist child victims of commercial sexual exploitation, according to the Ministry of Social Development, was the Service to Fight Violence, Abuse, and Sexual Exploitation of Children and Adolescents (formerly the Sentinel Program). It provided victims with psychological, social, and legal services through Social Assistance Specialized Reference Centers that are managed locally and raised awareness through information campaigns, workshops, and partnerships. The Ministry of Tourism continued to promote the code of conduct it developed to prevent the commercial sexual exploitation of children in the tourism industry, distributed public awareness campaign materials for display within tourism-related establishments, and continued to distribute awards to entities responsible for combating sexual exploitation of children within the industry. The Federal Highway Police and the International Labor Organization (ILO) published data on places such as gas stations, bars, restaurants, motels, and nightclubs along highways considered to be areas for sexual exploitation of children and adolescents.

In Rio de Janeiro city, the Secretariat for Social Assistance coordinated aid to street children and minors who were victims of sexual abuse and exploitation. According to the Rio de Janeiro Human Rights Center, the city maintained five centers that provided social services, counseling, and shelter, although the city discontinued its hotline for reporting cases of child sexual abuse and exploitation in January. The Sao Paulo city government continued to operate several programs for street children, including one that used rehabilitation and social reinsertion into other geographic areas to save the lives of adolescents condemned to death by drug traffickers.

*Trafficking in Persons.*—Although the law criminalizes all forms of trafficking, persons were trafficked from, within, and, to a lesser extent, to the country. Consolidated government statistics were unavailable.



Authorities continued to estimate that thousands of women and adolescents were trafficked annually from all parts of the country, both domestically and internationally, for commercial sexual exploitation. The government reported that trafficking routes existed in all states and the Federal District. The 2002 National Study on Trafficking in Women, Children, and Adolescents for Sexual Exploitation Purposes identified 241 international and national trafficking routes, but some study aspects were obsolete.

According to the National Justice Secretariat (SNJ), international sex trafficking victims were principally destined for Spain, the Netherlands, Venezuela, Italy, and Portugal; and international labor trafficking victims, for Bolivia and Paraguay.

Internal trafficking of rural workers into forced labor schemes was a serious problem, while trafficking from rural to urban areas occurred to a lesser extent. Union leaders claimed that nearly all persons working as forced laborers had been trafficked by labor recruiters. Labor inspectors found a small number of persons from other countries—mostly Bolivians, Paraguayans, and Koreans—trafficked into the country to work in urban sweatshops, primarily in the city and state of Sao Paulo. Labor recruiters generally recruited laborers from small municipalities in the north and northeast and transported them to ranches and plantations in remote areas in the central western part of the country. Most internally trafficked slave laborers originated from the states of Maranhao and Piaui, while Para and Mato Grosso states received the highest number of internally trafficked slave laborers.

Internal trafficking supplied forced labor, primarily from urban to rural areas, for agricultural work and commercial sexual exploitation. This typically occurred when employers recruited laborers from poor rural towns and transported them to remote areas where escape was difficult. Workers then were obliged to toil in brutal conditions until they could repay inflated debts.

Sex tourism existed throughout the country but was most apparent in coastal resort towns in the northeast, south, and southeast and in such major tourist destinations as Rio de Janeiro and Fortaleza, Ceara, as well as in the wildlife tourist areas of the Pantanal and the Amazon.

CECRIA found that typical sex trafficking victims were darker-skinned women between 15 and 27 years of age, but researchers also noted the presence of adolescent boys as victims, some of whom worked as transvestites. Persons exploited in trafficking schemes typically came from low-income families and usually had not finished high school. Traffickers often lured victims with promises of lucrative work as dancers or models in Europe; beauty contest winners were cited as common targets. Girls were recruited at clubs and modeling agencies or through the Internet, want ads, mail-order bride schemes, or maid and au pair services. Most women who were trafficked internationally were older than 18, but younger victims were also trafficked with counterfeit documents.

Police officials believed that some women recruited by trafficking organizations understood they were to work as prostitutes but did not know about working conditions and their prospective earnings. In other cases women were told that they would work as nannies or domestics. Upon arrival the victims' passports often were confiscated, and they were forced to prostitute themselves and live in virtual confinement. In addition to threatening physical violence, traffickers often used debt and isolation to control victims. Trafficking in persons was linked to international networks of crime, including drugs, arms trafficking, and money laundering. Traffickers were predominantly citizens and were usually associated with such activities as brothels, escort agencies, nightclubs, and tourist agencies.

The law establishes a penalty of up to eight years' imprisonment and a fine for internal or external trafficking in persons for the purposes of prostitution; sentences may be increased to 12 years when violence, threats, or deception are involved. The law requires the permission or presence of both parents for children to leave the country; it also prohibits children from leaving the country with a foreigner unless authorities grant prior approval.

Laws on trafficking for sexual exploitation were difficult to enforce, particularly in relation to domestic trafficking. Violators of antitrafficking laws rarely received criminal penalties because of statutes of limitation. Police officers reported difficulty in arresting traffickers because of the need to apprehend them in the act of traveling with the victims. According to police, some women left the country with traffickers willingly. Fear of reprisals and lack of awareness of legal recourse also kept victims from seeking police intervention or testifying against traffickers. In addition, because trafficking in persons laws were relatively new in the country and not fully understood by many judicial officials, courts often misclassified such cases. As a result, there were few criminal convictions for trafficking.

Fifteen government ministries and cabinet-level secretariats were involved in implementing the national antitrafficking-in-persons plan, notably the SEDH and var-

ious agencies of the Ministries of Justice (including the Federal Police), Tourism, Social Development, and Labor and Employment. The Federal Highway Police were responsible for checking documents and monitoring traffic along highways and roads; occasionally they were involved in apprehending suspected traffickers. Federal and state police monitored the Internet to detect recruitment by sex traffickers. Operating under the SNJ, which was building a national database to track victim and trafficker data, antitrafficking offices in the states of Sao Paulo, Rio de Janeiro, Ceara, and Goias monitored domestic and international trafficking. From 2004 to early 2009, 45 accusations of enticement for trafficking of women were presented to the Public Ministry in Goias, and the Federal Police there conducted 32 joint operations with foreign police.

In January Federal Police arrested four citizens and a Swiss national involved in trafficking young women from Goias State to Switzerland. At year's end there were no known developments.

In March Spanish police rescued 28 women trafficked from Brazil to Barcelona, Spain, for prostitution. At year's end the investigation continued.

In July authorities charged two citizens and five foreigners in Tocantins State with trafficking women to Spain and Portugal and eight persons in Espirito Santo State with trafficking women to Europe. In the latter case, two of the arrests were in Italy and six were in Rio de Janeiro and Espirito Santo.

In August the Federal Police arrested 18 suspected members of a trafficking ring centered in Sao Paulo that allegedly supplied the luxury prostitution market in the United States, the Caribbean, and Europe with approximately 200 women a year.

There were 43 Federal Police investigations conducted into cases involving trafficking of persons during the year, compared with 89 investigations in 2008. Goias Federal Court convicted five persons of international trafficking for the purpose of sexual exploitation in 2008. There were no known developments concerning the arrests of 14 individuals during 2008 for internal and international trafficking in persons in the states of Sao Paulo, Ceara, Mato Grosso, and Goias, including the cases of six persons charged with international trafficking and conspiracy who at the end of 2008 were being tried in the Mato Grosso Federal Court.

Trafficking victims were not treated as criminals, and police usually referred victims to centers for treatment and counseling. However, access to such services was limited due to a lack of government financial support, and efforts often were inconsistent and underfunded. The government cooperated with a number of shelters or health care facilities specifically dedicated to trafficking victims, and it trained workers at more than 600 centers to assist trafficking victims. The Secretariat of Social Assistance of the Ministry of Social Development and Combating Hunger operated more than 400 centers to assist victims of sexual abuse, exploitation, and domestic violence. NGOs provided victims assistance in job training, counseling, and other community reintegration assistance. Locally based NGOs assisted trafficking victims with retraining and counseling activities. Eighteen states have integrated into the SEDH-maintained national witness protection system, with another state in the process of integration. The federal government invested nearly 13 million reais (approximately \$7.5 million) into the witness program and brought 982 individuals under its protection during the year.

The SEDH conducted antitrafficking information campaigns. The SNJ continued to lead a government public awareness campaign to deter international traffickers and sensitize their potential victims to the dangers. Sao Paulo, Rio de Janeiro, and Pernambuco states and others carried out similar, statewide campaigns.

Labor organizations and NGOs continued to conduct prevention campaigns to supplement Federal Police and state civil police efforts.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the federal government effectively enforced these provisions. However, state governments failed to meet legally mandated targets for educational opportunities and work placement. While federal and state laws have provisions ensuring access to buildings for persons with disabilities, states did not have programs to enforce them effectively. For instance, while the Sao Paulo State labor code requires that meeting places for more than 100 persons or other facilities for 600 persons or more provide modified entrances and other accommodations for persons with disabilities, such persons had continued difficulty in securing necessary accommodations.

The National Council for the Rights of Handicapped Persons and the National Council for the Rights of the Elderly, both within the SEDH, have primary responsibility for promoting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Although the law prohibits racial discrimination, darker-skinned citizens, particularly Afro-Brazilians, frequently encountered discrimination.

The law specifically prohibits denial of public or private facilities, employment, or housing to anyone based on race. The law also prohibits, and provides jail terms for, the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets.

Afro-Brazilians, representing almost half the population, were significantly underrepresented in the government, professional positions, and the middle and upper classes. They experienced a higher rate of unemployment and earned average wages approximately half those of a white person. There was also a sizeable racial education gap.

In 2008 in a government report to the UN, the SEDH acknowledged the existence of racism in the country but stated that the government took and was taking affirmative actions to reduce it, including university admission quotas for Afro-descendants.

Sixty-eight universities maintained affirmative action programs, including major public universities in the Federal District and the states of Sao Paulo, Rio de Janeiro, Parana, Mato Grosso, Minas Gerais, Espirito Santo, and Bahia. For instance, the University of Brasilia admitted 3,275 self-declared students of color during the year using a quota. According to a study from Rio de Janeiro Federal University released in 2008, approximately half the public federal and state universities had a quota system or an exam bonus.

*Indigenous People.*—The law grants the indigenous population broad protection of their cultural patrimony and exclusive use of their traditional lands. Although many problems existed, the government continued to make limited progress in securing these rights. The law provides indigenous persons with exclusive beneficial use of the soil, waters, and minerals on indigenous lands, but Congress must approve each case. The government administers the lands but must consider the views of affected communities regarding their development or use, and communities have the right to “participate” in the benefits gained from such use. However, indigenous leaders and activists complained that indigenous persons had only limited participation in decisions taken by the government affecting their land, cultures, traditions, and allocation of national resources.

The National Indigenous Foundation (FUNAI) estimated that there were more than 500,000 indigenous persons in 225 societies on indigenous lands and an additional 100,000 to 190,000 indigenous persons living outside these areas, including in urban environments. In October *O Estado de S. Paulo* newspaper reported an estimated 150,000 indigenous voters in the country and marked a trend of increased indigenous political representation including five mayors and 90 city council members.

The government estimated that more than half of the country’s indigenous persons lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts, including land development, agricultural expansion, and mining. FUNAI reported that indigenous persons also faced other problems, including disease, poor health care, and loss of native culture.

While the 1988 constitution charged the federal government with demarcating indigenous areas within five years, the government has not completed the process’s four phases (identification, declaration, approval, and registration).

In a landmark ruling on March 19, the Supreme Court upheld the demarcation of the large Raposa Serra do Sul reserve in Roraima State as contiguous indigenous territory, ordered the removal of nonindigenous rice farmers from the land, and articulated 19 conditions governing the exercise of state power relative to indigenous lands. The court rejected the view that the reservation threatened the development or security of the state and endorsed the federal executive branch’s view. Confrontations between indigenous persons and rice farmers in the reserve in 2008 had resulted in the wounding of 10 indigenous persons.

A law enacted in June allows the transfer of properties in the Amazon region to those who occupied them prior to December 2004 and whose occupation was peaceful.

In an August report, a UN Human Rights Council special rapporteur noted the absence of an effective mechanism for consultation with indigenous persons on the planning of major development projects, such as highway and dam construction and large-scale mining. The special rapporteur also criticized the government for failure to protect the land from outsiders and for inadequate attention to the health care and educational needs of the indigenous population, although the report noted the government’s creation of 34 Special Indigenous Health Districts to provide a network of services adapted to indigenous community needs.

In October the Ministry of Justice decreed recognition of the boundaries of Guyraroka indigenous land, belonging to the Guarani-Kaiowa tribe in Mato Grosso do Sul State, after more than 10 years of dispute.

On December 21, the president decreed tracts of land, mainly in the Amazon region and totaling approximately 19,300 square miles, as indigenous reserves. Farmers in Mato Grosso do Sul challenged the decree's constitutionality, and on December 29, the Supreme Court president suspended it with respect to a nonindigenous farm in that state until the court can decide the merits of the case.

Nonindigenous persons who illegally exploited indigenous lands for mining, logging, and agriculture often destroyed the environment and wildlife, spread disease, and provoked violent confrontations. FUNAI, which acknowledged insufficient resources to protect indigenous lands from encroachment, depended on the understaffed and poorly equipped Federal Police for law enforcement on indigenous lands.

Disputes between indigenous and nonindigenous persons occasionally erupted into violence. Most conflicts concerned land ownership or resource exploitation rights. Tensions were particularly acute in Mato Grosso do Sul State, where denial of access to traditional lands, extreme poverty, and related social ills led to high rates of infant mortality and violence, including murder and suicide. In January six members of the Guarani-Kaiowa tribe in Mato Grosso do Sul State committed suicide; there were no known developments at year's end regarding the resultant civil police investigation.

On February 12, approximately 25 civil police raided the Guarani-Kaiowa village of Passo Piraju, Mato Grosso do Sul State, and detained four tribe members accused of receiving stolen goods, illegally possessing a weapon, and forming a criminal gang. According to residents, the police kicked down house doors, damaged homes and the school, and took money and household goods. In September a court set two of the accused free because of undue delay in the legal process.

In June the Federal Police allegedly abused five Tupinabas in Ilheus, Bahia, to force their confession to a murder involving a land dispute with a nonindigenous rancher. A Federal Police investigation into their complaint was pending at year's end (see section 1.c.).

On September 18, a group of 10 men attacked the Guarani-Kaiowa community Apyka'y, shot and injured one tribe member, and burned several shelters. Four days earlier, shelters in a nearby Guarani-Kaiowa community were burned. At year's end there were no known developments in the resultant Public Ministry investigation into both incidents.

According to the Indigenous Missionary Council, 60 indigenous persons were killed during 2008.

There were no developments in the Mato Grosso do Sul civil police investigation into the suicides of 34 members of the Guarani-Kaiowa tribe in 2008.

At year's end there were no known developments in the police investigation of the 2007 killing of indigenous leader Ortiz Lopes in Mato Grosso do Sul State.

The precarious health situation of indigenous groups continued in many states. Malnutrition, dengue, malaria, hepatitis, tuberculosis, and parasites were among frequent ailments and principal causes of death, according to the UN special rapporteur. Indigenous women suffered disproportionately from cervical cancer. Complaints continued regarding poor transportation for bringing doctors to communities and taking patients to hospitals. The Ministry of Health created a Special Secretariat for Indigenous Health in 2008 to improve the provision of health services to indigenous communities. It tasked a working group, composed of FUNAI and National Health Foundation specialists, to identify and train community members as health agents. For example, in Mato Grosso do Sul, authorities designated 28 indigenous persons for training focused on respiratory illness and diarrhea.

There were no reported developments regarding either the Vale do Rio Doce Company appeal of the September 2008 Para State Federal Court decision to reinstitute monthly payments to Xikrin tribal groups or the related Public Ministry civil case, both of which remained pending at year's end.

Created in April 2008, the National Commission on Indigenous Policies—consisting of representatives from indigenous tribes, civil society groups, and numerous government entities—examined ways to improve government policies and the provision of health services to indigenous persons and to incorporate indigenous concerns into the federal government's anticrime plan. In October the commission met in Rio Branco, Acre, to discuss the state's indigenous political issues and mineral exploration in the Cinta Larga indigenous land.

According to the Ministry of Education, 20 state and federal universities continued to reserve entrance slots for indigenous persons. The number of indigenous university students, almost 5,000 or approximately 1 percent of total university students, remained unchanged.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Federal law does not prohibit discrimination based on sexual orientation, but several states and municipalities such as Sao Paulo had administrative regulations that bar discrimination based on sexual orientation and provide for equal access to government services.

Between January and September, the NGO Bahia Gay Group received 115 reports of killings in the country based on sexual orientation and gender identity, a decrease from 186 during the same period in 2008. Gay men were the most affected group, followed by transvestites and lesbians. During the year Parana State had the most cases of killings of gay men (19), followed by the states of Bahia (18) and Sao Paulo (10). Activist groups claimed that violence against gay, lesbian, and transgender persons and, in particular, transvestites was underreported (see also section 1.a.). Boys perceived to be effeminate were trafficked within the country and abroad to work as transvestite prostitutes. Police routinely harassed transvestite prostitutes.

Rio de Janeiro's program "Rio without Homophobia"—created in May 2008 to replicate a national program aimed at providing assistance to the homosexual community—remained under development.

*Other Societal Violence or Discrimination.*—There were no reported cases of societal violence or discrimination based on persons with HIV/AIDS during the year.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for union representation of all workers (except members of the military, the uniformed police, and firefighters) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the MTE, which accepts the registration unless objections are filed by other unions. Unions that represent workers in the same geographical area and professional category may contest registration, in which case the MTE Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found valid, the MTE does not register the union. Union organizers may challenge this decision in labor courts.

The law stipulates certain restrictions, such as "unicidade" (one per city), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a given geographical area. Most elements of the labor movement and the International Trade Union Confederation criticized unicidade. While a number of competing unions existed, the MTE and the courts enforced unicidade in decisions regarding the registration of new unions.

The law extends legal recognition to trade union centrals that meet certain requirements regarding membership and regional representation. Such recognition allows qualifying centrals legally to represent workers in courts, public councils, and other bodies.

The Single Central Organization of Workers estimated that 20 to 25 percent of workers were unionized. Most informal sector workers, including self-employed workers and those not formally registered with the MTE, fell outside the official union structure; they therefore did not enjoy union representation and usually were unable to exercise their labor rights fully. According to government statistics, the informal sector accounted in 2008 for approximately 38 percent of the labor force; in agriculture 70 percent of workers were unregistered.

Intimidation and killings of rural union organizers and their agents continued. The Catholic Church's Pastoral Land Commission reported that violence in rural areas victimized labor leaders, with most perpetrators enjoying impunity (see section 1.a.).

On August 23, two masked men shot and wounded Elio Neves, president of the Federation of Rural Salaried Employees of Sao Paulo State and known for his representation of sugarcane workers, in Riberao Bonito, Sao Paulo. At year's end there were no arrests.

There were no developments in the August 2008 attempted killing of Transport Workers' Union leader Joinville Frota in Amapa State, reportedly during a dispute between the union and two transport companies.

The law provides the right to strike to all workers except the armed forces, military police, and firefighters. The civil police are allowed to conduct strikes, and workers exercised this right in practice. The Inspectorate General of Military Police is responsible for monitoring compliance with laws and regulations concerning the military police and the firefighter corps of the states. For the excepted individuals, an internal administrative process is provided for handling grievances, ensuring due process, and protecting worker rights. It is hierarchical and varies by state. For example, in the Military Police of Sao Paulo, an officer must direct his/her complaint to an immediate supervisor within five days of becoming aware of the act motivating

the complaint, a decision is required in the following 10 days, and an appeal is possible. If the issue concerns discipline, a Council of Discipline composed of three active-duty officers is required to rule within 15 days of submissions from both sides.

The law stipulates that a strike may be ruled “abusive” by labor courts and be punishable if a number of conditions are not met, such as maintaining essential services during a strike, notifying employers at least 48 hours before the beginning of a walkout, and ending a strike after a labor court decision. Employers may not hire substitute workers during a legal strike or fire workers for strike-related activity, provided that the strike is not ruled abusive. In practice employers fired strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge was often a protracted process.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining was widespread in the formal sector. The law obliges a union to negotiate on behalf of all registered workers in the professional category and geographical area it represents, regardless of whether an employee pays voluntary membership dues to it.

The law permits the government to reject clauses of collective bargaining agreements that conflict with government policy. The ILO Committee of Experts has called for this provision’s repeal. Collective bargaining is effectively prohibited in the public sector; the constitution allows it, but implementing legislation has never been enacted.

The law prohibits the dismissal of employees who are candidates for or holders of union leadership positions and requires employers to reinstate workers fired for union activity; however, authorities at times did 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 were slow and cumbersome, averaging six years for resolution. Parties generally agreed that when ultimately resolved, cases were decided fairly and on their merits. There was a trend for courts to rule against employees, claiming that union membership was not a factor. Most complaints were resolved in the first hearing; however, the appeals process introduced many delays, and some cases remained unresolved for up to 10 years.

There are no special laws or exemptions from regular labor laws in the country’s free trade zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits “reducing someone to a condition analogous to slavery.” The concept of slave labor includes not only forced and compulsory labor but also extremely arduous labor and labor performed in degrading working conditions. Such labor, including by children, occurred in many states, most commonly in activities such as forest clearing to provide cattle pastureland, logging, charcoal production, raising livestock, and agriculture, particularly harvesting sugarcane. Forced labor typically involved young men drawn from the impoverished northeast states—Maranhao, Piaui, Tocantins, Para, Goias, and Ceara—to work in the northern and central-western regions of the country. Women and children, the latter typically working with their parents, also were involved in forced labor activities such as charcoal production. The ILO estimated that there were approximately 25,000 forced laborers at any given time during the year, with some NGOs estimating the number as high as 100,000 without supporting empirical data. According to the MTE, there were 29 slave labor cases against employers in the early stages of federal labor court trial at year’s end.

Labor intermediaries trafficked most forced laborers to remote estates, where victims were forced to work in harsh conditions until they repaid inflated debts related to travel, tools, clothing, or food. Armed guards sometimes were used to retain laborers, but the remoteness of the location, confiscation of documents, and threats of legal action or physical harm usually were sufficient to prevent laborers from fleeing.

Violators of forced or compulsory labor laws may be sentenced up to eight years in prison. The law also provides penalties for various crimes related to forced labor, such as recruiting or transporting workers or obliging them to incur debt as part of a forced labor scheme. The abolition of forced labor was hindered by failure to impose effective penalties, the impunity of those responsible, delays in judicial procedure, and the absence of coordination between various government bodies. There were few criminal prosecutions relating to forced labor because of the lack of a clear legal definition; local political pressure; weak coordination among the police, the judiciary, and prosecutors; the remoteness of areas in which forced labor was practiced; witnesses’ fear of retaliation; and police failure to conduct criminal investigations when accompanying labor inspectors on raids.

However, there were the following notable cases:

On March 5, a federal judge in Maraba, Para State, convicted 27 persons on slave labor charges; imposed sentences ranging from three years and four months to 10 years and six months in prison, plus fines; and acquitted eight persons. The defendants were landowners in the southern and southeastern regions of the state, property managers, and labor recruiters.

On October 2, a judge convicted and sentenced to 23 years in prison Moises Cespedes Cossio, an apparel manufacturer in Sao Paulo, for slave labor, facilitating the illegal entry of foreigners into the country, and kidnapping. According to court testimony, Cossio seized the passports of his Bolivian workers and threatened them if they tried to escape. Police discovered the slave labor situation in his factory after he held one young worker for ransom.

On November 11, a judge convicted the former vice mayor of Moju, Para State (Altino Coelho Miranda) and his son (Altino Freitas Miranda) for having 15 workers, including one below age 18, in conditions analogous to slavery on their palm-oil plantation. The judge sentenced the father to nine years in prison and the son to seven years and six months in prison and fined both.

On November 18, a judge convicted Eduardo Dall Magro, owner of a rice and soy plantation in Ribeiro Goncalves, Piaui State, for having 21 workers in conditions analogous to slavery and sentenced him to three years and four months in prison, and also sentenced his farm manager to two years and eight months in prison and his labor recruiter to three years' imprisonment. All three were also fined and, at year's end, were free pending appeal.

The MTE punished those who used slave labor by imposing fines, requiring that indemnities be paid to workers, and placing the names of violators on a "dirty list" that is published every six months on the Internet. Each listed employer is reviewed after two years to determine if the irregularities identified have been corrected, in which case the employer is removed from the list. Although the decree that created the list does not prohibit granting credit to listed persons or companies, the Ministry of National Integration recommends denying financing and other assistance to violators, and some financial institutions decide to do so on their own initiative. The Bank of Brazil denied credit to landowners using slave labor, and some sectors of the economy refused to buy products from producers on the list. The Federal Labor Prosecutor's Office participated in inspections by receiving complaints and establishing fines that violators had to pay to receive financing and credit, sell products, have their accounts unfrozen, or obtain access to governmental loans.

In December the MTE reported in its semiannual "dirty list" 165 employers in 17 states who used their workforce in conditions analogous to slave labor. In one case involving the world's largest sugarcane producer, its listing generated legal action that continued at year's end.

During the year the MTE's Mobile Inspection Unit freed 3,571 slave laborers in 141 operations on 324 properties. Payments of indemnities to the workers totaled approximately 5.6 million reais (\$3.2 million).

The 2008 slave labor case against a cacao plantation employer in Placas, Para, remained unresolved as a federal labor court continued to determine civil penalties.

At year's end there were no known developments concerning penalties in a 2006 case in which authorities arrested landowners in Goias State suspected of labor abuse and environmental crimes in making charcoal from illegally felled, protected-area timber.

The National Commission to Eradicate Slave Labor coordinated the government's efforts to eliminate forced labor. The MTE's enforcement arm, the Special Group for Mobile Inspection, had responsibility for locating and freeing victims of forced labor. Federal Police accompanied mobile unit inspectors on raids to provide protection. Mobile teams levied fines on estate owners who used forced labor and required employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin. Although mobile units enjoyed some success in freeing those working in slave-like conditions, inspectors faced resistance and often worked under dangerous conditions.

The National Pact for the Eradication of Slave Labor included more than 200 companies and NGOs with a public commitment to restrict economic relations with anyone who uses slave labor. The NGOs Social Observatory Institute, ETHOS Institute, and Reporter Brasil monitored the actions to combat forced labor implemented by those who signed the pact.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although child labor is prohibited, it continued to be a widespread problem, particularly in homes and the informal sector. Children were found working on cotton, manioc, pineapple, rice, and tobacco farms. The government's Applied Economic Research Institute data showed that there were 1.7 million children between the ages of five and 14 (approximately 5 percent of the total) who worked in the country's economy in 2008.

According to the National Household Survey conducted by the Brazilian Institute of Geography and Statistics (IBGE), the number of children between the ages of five and 17 working in the economy fell from 8.4 million in 1992 to 4.5 million in 2008. In a report released in December, the ILO recognized the country's government and civil society for their comprehensive efforts aimed at preventing and eliminating child labor. The government continued to cooperate with the ILO in projects to eradicate child labor in the states of Bahia and Mato Grosso.

The minimum working age is 16 years, and apprenticeships may begin at age 14. The law bars all minors under age 18 from work that constitutes a physical strain or that occurs in nocturnal, unhealthy, dangerous, or morally harmful conditions; however, authorities rarely enforced additional legal restrictions intended to protect working minors under age 18. The law requires parental permission for minors to work as apprentices, and apprentices must attend school through the primary grades. Inspectors may punish violators of child labor laws by drawing up infringement assessments and issuing fines.

Approximately half of child laborers received no income, and 90 percent worked in the unregistered informal sector. Slightly more than half of child laborers worked in rural areas, and two-thirds were boys. The ILO estimated that approximately 20 percent of 10- to 14-year-old girls worked as household domestics. Most of these workers received less than half the minimum wage and worked in excess of 40 hours a week.

The hidden and informal nature of child labor made children especially vulnerable to workplace accidents. Children were involved in livestock and sugarcane raising and the production of ceramics, bricks, charcoal, sisal, and footwear. They suffered from dismemberments, gastrointestinal disease, lacerations, blindness, and burns caused by applying chemical products with inadequate protection.

The MTE is responsible for inspecting worksites to enforce child labor laws; its regional offices have special groups to enforce child labor laws, principally by gathering data and developing plans for child labor inspection. Nonetheless, most inspections of children in the workplace were driven by complaints brought by workers, teachers, unions, NGOs, and the media. Labor inspectors continued to prioritize inspections in the informal sector, but they remained unable to enter private homes and farms, where much of the nation's child labor was found. The MTE reported that from January to December, inspectors found 4,788 children under age 16 working illegally, a 19 percent decrease compared with 2008. In most cases inspectors reportedly attempted to reach agreements and convince employers to desist from labor law violations before levying fines of 402 reais (approximately \$230) per violation up to a maximum fine of 2,013 reais (approximately \$1,150); the fine doubles for a second violation and triples for a third. In practice few employers were fined for employing children.

In September police uncovered forced and child labor on a lime farm in Cabreuva, Sao Paulo State. One child claimed to earn two reais (approximately \$1.15) daily, and another reported not being paid in months and subsisting on food from neighbors. Authorities removed 30 children from the property; no arrests were reported.

The government implemented programs to prevent child labor, including the Program to Eradicate Child Labor (PETI), coordinated by the Ministry of Social Development and Combating Hunger with state and local authorities. Through PETI, families with children seven to 15 years of age working in selected hazardous activities receive monthly cash stipends to keep their children in school, and the children may participate in after-school programs that provide nutritional snacks, sports, art, and cultural activities. Through the Social Development Ministry, the Bolsa Familia program provided a monthly stipend to low-income families that keep their children up to age 17 in school and meet certain child-health requirements.

The NGO Centers for the Defense of Children and Adolescents were active in many parts of the country and reported violations of children's rights to the guardianship councils, the social assistance network, and the organizations that defended children and family rights.

Civil society also took actions to prevent and abolish child labor. The National Forum for the Eradication and Prevention of Child Labor, which includes governmental and civil society representatives, mobilized institutional agents involved in developing policies and programs to eliminate child labor. The toy industry's Foundation for Children's Rights operated a labeling program that identified companies with child-friendly policies and a commitment to eliminate child labor. All major labor organizations had programs to educate union members about the hazards of child labor and encouraged members to report instances of child labor to authorities.

*e. Acceptable Conditions of Work.*—The government adjusts the minimum wage annually through a provisional measure from the president, citing a percentage increase for inclusion in the annual budget based on consultations among the Min-



istries of Finance and Social Security, Congress, and the presidency (but not with workers or employers). In February the minimum wage increased to 465 reais (approximately \$267) per month. The IBGE estimated that approximately 26 percent of workers earned the minimum wage or less in 2008. The national minimum wage did not provide a decent standard of living for a worker and family.

The law limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The law also prohibits excessive compulsory overtime and stipulates that hours worked above the weekly limit must be compensated at time-and-a-half pay; these provisions generally were enforced in the formal sector.

The MTE sets occupational, health, and safety standards that are consistent with internationally recognized norms. MTE labor inspectors worked closely with the Federal Labor Prosecutor's Office, an independent agency responsible for prosecuting labor infractions. However, the government devoted insufficient resources for adequate inspection and enforcement of standards.

Unsafe working conditions were prevalent throughout the country. There were no figures available on workplace accidents during the year. According to data from the Ministry of Social Security, the government granted benefits to 28,819 persons for work-related accidents from January to November. Employees or their unions may file claims related to worker safety with regional labor courts, although this was frequently a 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 occurred, and legal recourse usually required years for a resolution. The Federal Prosecutor's Labor Office reported that numerous firms used computerized records to compile "black lists" identifying workers who had filed claims in labor courts. Individual workers did not have the legal right to remove themselves from the workplace when faced with hazardous working conditions, but workers could express such concerns to a company committee for an immediate investigation.

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## CANADA

Canada, with a population of 33.8 million, is a constitutional monarchy with a federal parliamentary form of government. In a free and fair multiparty federal election held in October 2008, the Conservative Party, led by Stephen Harper, won a plurality of seats and formed a second successive minority government. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provided effective means of addressing individual instances of abuse. Human rights problems included harassment of religious minorities, violence against women, and trafficking in persons.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed any politically motivated killings, but a few law enforcement-related deaths remained under investigation.

In January the Commission for Public Complaints Against the Royal Canadian Mounted Police (CPC) initiated an investigation into all in-custody deaths that involved the use of a taser by the Royal Canadian Mounted Police (RCMP). On March 26, the CPC reported that RCMP officers drew tasers 1,106 times in 2008 (approximately 30 percent less often than in 2007) and fired them in 63 incidents (down from 148 in 2007).

After reviewing recommendations of a June 2008 CPC report on the use of RCMP tasers, the RCMP on February 12 acknowledged that tasers posed a risk of death and confirmed that it had issued revised training and policy directives for taser use, effective June 2008. The new regulations require use to be "reasonable" (where the alternative is to deploy a firearm) and restrict use to incidents in which there is a real threat to officers or the public. The regulations also direct officers to subdue the suspect as an alternative to multiple discharges when another officer is present. The rules tighten reporting requirements and require officers to recertify annually to use the weapons.

On July 31, police in Edmonton, Alberta, issued new regulations to restrict police use of tasers to incidents in which there is a “real likelihood of injury” to an officer, the individual being arrested, or a bystander.

In October the RCMP, the Ontario Provincial Police, and police forces in Toronto, Vancouver, Calgary, and Winnipeg ordered officers to avoid firing tasers at the upper chest.

On February 8, an investigation into the June 2008 death of Jeffrey Mark Marreel in Ontario concluded that Marreel died of cocaine poisoning and that provincial police acted lawfully when they used a taser to subdue him.

In May and September, the Ontario Special Investigations Unit cleared Peel police officers of criminal liability in two 2008 deaths: the shooting of Gregg Moynagh of Mississauga; and the taser death of Sean Reilly of Brampton. Inquests remained pending at year’s end. There were no developments in the July 2008 death of Michael Langan in Manitoba after police stunned him with a taser.

On April 22, the RCMP apologized publicly for releasing and subsequently failing to correct erroneous information about the conduct of RCMP officers in the 2007 death of Robert Dziekanski at Vancouver International Airport. On July 24, a British Columbia inquiry into the death issued the first of two reports. The report recommended that the British Columbia government set province-wide standards for taser use, that police deploy the weapons only when enforcing federal criminal law or in cases of actual or imminent bodily harm, and that police limit discharges to five seconds. The report also called for enhanced police training and annual reporting on the use of tasers in the province. The British Columbia government ordered all police officers in the province to implement the guidelines with immediate effect, including the federal RCMP, which provided contract policing for approximately 70 percent of the province. However, the RCMP announced it would review the recommendations. It had not stated publicly whether it would comply with the provincial directive by year’s end. The second report, focusing on the circumstances of Dziekanski’s death, remained pending at year’s end.

On December 8, the CPC issued a final report on the conduct of RCMP officers in Dziekanski’s death. The commission found that the four RCMP officers involved lawfully executed their duties but that their conduct fell short of the standard expected of members of the RCMP. It further found that the RCMP failed to provide clear and accurate information to the public in its internal investigation of the incident. On December 29, the British Columbia Court of Appeal upheld a lower court ruling that the province’s report into Dziekanski’s death could find the four RCMP officers in the case guilty of misconduct in the incident. The officers had argued that the inquiry lacked jurisdiction to comment on the federal RCMP.

On May 13, a provincial inquiry ruled that the cause of the 2006 death of Jason Doan of Red Deer, Alberta, after he was stunned by police with a taser, remained undetermined and could not be conclusively attributed to the weapon.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

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

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

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the RCMP and provincial and municipal police forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Authorities generally apprehended persons openly with warrants. A judge may issue a warrant after being satisfied that a criminal offense may have been committed. A person arrested for a criminal offense has the right to a prompt, independent judicial determination of the legality of the detention; authorities respected this right in practice. Authorities provided detainees with timely information as to the reason for the arrest; ensured prompt access to a lawyer of the detainees’ choice and, if indigent, to one provided by the state; and granted prompt access to family members. Bail generally was available. Detainees were released immediately after being charged, unless a judge deemed continued detention necessary to ensure the detainee’s attendance in court, for the protection or safety of the public, or due to the gravity of the offense.

Noncitizens may be detained and deported on national security grounds under immigration security certificates. The government issues certificates on the basis of confidential evidence presented to two cabinet ministers by intelligence or police agencies and reviewed by a Federal Court judge who determines its "reasonableness" and upholds or revokes the certificate. A judge may order an individual detained during the security certificate removal process if the government considers that the individual presents a danger to national security or is unlikely to appear at the proceeding for removal. If a judge determines that an individual faces a risk of torture or death in the individual's country of origin greater than the risk the person poses by remaining in the country, the judge may stay the removal order, and the individual may be detained pending deportation or released subject to monitoring.

Individuals subject to a security certificate may see a summary of confidential evidence against them. Authorities provide full disclosure to court-appointed, security-cleared lawyers ("special advocates") who can review and challenge the evidence on the behalf of these individuals, but may not show to or discuss the material with them. The law establishes strict rules on disclosure and use of secret evidence, prohibits the use of evidence if there are reasonable grounds to believe authorities obtained it as a result of torture, and provides mechanisms for review and appeal.

On October 14, the Federal Court revoked one security certificate after authorities withdrew sensitive evidence (rather than disclose it) in the case against the suspect. On December 17, the Court revoked a second certificate. Three applications for security certificates were active at year's end. The Federal Court relaxed restrictions on the three individuals whom it had previously ordered conditionally released in 2008. In December the government initiated a review of the national security certificate program.

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

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The judicial system is based on English common law at the federal level as well as in most provinces. In Quebec, civil law is derived from the Napoleonic Code; however, criminal law is the same nationwide. The government appoints the judges. Trials are public, and defendants have a right to have their case heard before a judge alone or, for more serious cases, before a judge and jury. Defendants have the right to be present and to consult with an attorney in a timely manner. The government provides an attorney at public expense if needed when defendants face serious criminal charges, and defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys generally have access to government-held evidence relevant to their cases. Defendants also enjoy a presumption of innocence and have a right of appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters and access to a court to bring suit seeking damages for, or cessation of, a human rights violation. Remedies can be monetary, declaratory, or injunctive. Alleged human rights violations may also be heard by provincial or federal human rights commissions, although these bodies follow differing standards and procedures. Complainants have access to alternative dispute mechanisms as well as judicial remedies.

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

On October 5, the government of Ontario completed a four-month investigation into allegations that Crown prosecutors in Barrie and Windsor directed Ontario provincial police and local police to conduct extensive background checks on potential jurors. The investigation revealed that 18 of the 55 Crown attorney offices in Ontario gathered personal information about potential jurors that failed to comply with applicable privacy legislation. The background checks had led to two mistrials and the dismissal of two jury panels at year's end.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. Individuals could criticize

the government publicly or privately without reprisal. The independent media were active and expressed a wide variety of views without restriction.

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. It also has 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, the country's constitutional bill of rights. Provincial-level film censorship, broadcast licensing procedures, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography also impose some restrictions on the media.

Inciting hatred (in certain cases) or genocide is a criminal offense, but the Supreme Court has set a high threshold for such cases, specifying that these acts must be proven to be willful and public. Laws prohibit speech or programming containing any abusive comment that would expose individuals or groups to hatred or contempt and empower the federal Canadian Human Rights Commission (CHRC) and the federal Canadian Human Rights Tribunal (CHRT) to enforce the law in areas of federal jurisdiction. In addition, each province has its own human rights code. Some advocates argued that the hate speech laws limit freedom of speech and criticized the requirement that commissions process all complaints received, the procedures that permit commissions to investigate and adjudicate complaints, and the ability of complainants to file identical complaints with several provincial commissions, each of which may adjudicate without attention to others.

On July 23, the Vancouver City Council passed bylaws banning leaflet distribution and posters in Olympic venues during the 2010 Olympic Winter Games and creating separate protest zones for political, religious, or racial demonstrations. The bans take effect in January 2010 and expire in March 2010. Nongovernmental groups criticized the restrictions on free speech.

On December 22, the Supreme Court added greater protections for journalists and Internet media, including bloggers, against claims of defamation in a ruling striking down two separate findings of libel against two newspapers. The Court created a new "responsible communication" defense to libel claims on matters of public interest in which a journalist's attempts to report fairly and accurately are of greater importance than a discovery of false allegations.

On December 3, an Alberta provincial court overturned a 2008 order by the Alberta Human Rights and Citizenship Commission that had sanctioned and fined Stephen Boissin for violating the province's human rights code in a letter critical of homosexual conduct that he wrote for a newspaper.

In a new trial in February, a Saskatchewan provincial court acquitted a former Assembly of First Nations leader of hate speech, ruling that he did not willfully intend to incite hatred against Jews in his 2002 remarks.

*Internet Freedom.*—There were no government restrictions on access to the Internet and no reports that the government monitored e-mail or chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was readily available and widely used. The International Telecommunication Union reported that there were 75 Internet users per 100 inhabitants in 2008.

The CHRC investigates complaints about hate messages on Web sites and may forward cases to the CHRT for action.

On June 11, the CHRC released its special report to Parliament on hate speech on the Internet, which recommended that the federal Human Rights Act continue to prohibit hate speech but also proposed establishing a statutory definition of hatred and contempt and allowing the CHRC summarily to dismiss complaints. These recommendations differed from the nonbinding November 2008 policy review, which suggested that Parliament repeal the section of the federal Human Rights Act dealing with hate speech.

On September 9, the CHRT, in ruling on a complaint that accused former white supremacist leader Marc Lemire of disseminating hate speech on his Web site, found that section 13(1) of the Human Rights Act prohibiting the telephonic dissemination of hate speech was unconstitutional. The CHRT concluded that section 13(1) violates the freedom of expression provision of the Canadian Charter of Rights and Freedoms. The CHRT's ruling is not binding on courts or provincial tribunals. On October 1, the CHRC appealed the CHRT's ruling to the Federal Court. In January the privacy commissioner released a report finding that the CHRC had not improperly accessed a private citizen's Internet account, as charged by Lemire.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

On July 24, the Supreme Court ruled that the province of Alberta could require members of the Hutterite religious community to pose for photographs to obtain driver's licenses. The Supreme Court found that the benefits of a universal photo requirement outweighed the infringement on the Hutterites' religious beliefs.

On September 1, the Quebec Superior Court rejected an application by a group of parents in Drummondville to exempt their children from mandatory enrollment in an "Ethics and Religious Culture" course that provided an overview of world religions. In September 2008 Quebec's Education Ministry implemented the course in all elementary and secondary schools in the province, including private and religious schools. The parents had alleged that the course contravened their charter right to freedom of religion and conscience, as well as their choice of education.

On September 23, the British Columbia Supreme Court dismissed charges against the current and former bishops of the Bountiful Fundamentalist Church of Jesus Christ of Latter-day Saints for breaching section 293 of the criminal code, which bans polygamy, in a case brought before the court in January. The court ruled that the former attorney general did not have jurisdiction to appoint a new special prosecutor to the case after two previous special prosecutors had refused to prosecute the two bishops.

*Societal Abuses and Discrimination.*—There were a number of reports of harassment of religious minorities, which the government investigated and punished under laws and regulations that seek to protect religious freedom and counter hate and bias activity.

Approximately 1.1 percent of the population was Jewish. The B'nai Brith Canada League for Human Rights received 1,135 reports of anti-Semitic incidents in 2008, an 8.9 percent increase from 2007. The greatest number of reports came from Ontario Province (682 incidents, 538 of which took place in the Greater Toronto area), followed by Quebec Province (245 incidents, 201 of which took place in Montreal)—the two provinces where approximately 80 percent of the country's Jewish population resided. The 1,135 reports included 803 cases of harassment, 318 cases of vandalism, and 14 cases of violence; 177 cases involved attacks on synagogues, Jewish homes, community centers, or cemeteries. Jewish students reported 76 cases of anti-Semitic incidents that occurred on university campuses in 2008, compared with 78 in 2007; another 57 involved primary and secondary school settings, compared with 82 in 2007. B'nai Brith also received 405 reports of Web-based hate activity, a 31 percent increase from 2007.

On July 31, the RCMP arrested three men in Ucluelet, British Columbia, for allegedly shouting anti-Semitic comments and spray-painting their bodies with anti-Semitic messages. Authorities charged one man with disorderly conduct and dropped charges against the other two.

On August 1, police confirmed that unidentified arsonists destroyed a Punjabi private religious school in East Vancouver in a fire set on July 30. Police had no suspects at year's end.

In August unidentified vandals spray-painted swastikas on buildings, bus shelters, and road signs in the city of Cote Saint-Luc, a suburb of Montreal with a large Jewish population. According to police, there were 14 local incidents of anti-Semitic graffiti from January to August.

On November 15, an unidentified man spray-painted anti-Semitic slogans on the Calgary Jewish Centre, the Holocaust War Memorial, and private residential property in Calgary. Police were investigating at year's end.

On December 16, an Ontario court sentenced an individual to six months in prison for criminal harassment, assault with a weapon, and possession of a concealed weapon after he uttered anti-Semitic slurs and death threats against a Jewish man and his son in September.

A British Columbia Human Rights Tribunal decision regarding the March 2008 complaint of two Sikh men against their employer remained pending at year's end. The men alleged that their employer failed to consider their religious obligation to wear a turban when it required them to wear hard hats and suspended them for not doing so in 2007.

The CHRC is responsible for information programs to foster public understanding of the Canadian Human Rights Act. Provincial human rights commissions and tribunals perform similar functions for activities not under federal regulation. Four provinces (Newfoundland, Nova Scotia, Prince Edward Island, and New Brunswick)

officially recognize Holocaust Remembrance Day, and every province conducts a remembrance ceremony.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the government did not use it.

*Protection of Refugees.*—The country is a party to the 1951 Convention and 1967 Protocol relating to the Status of Refugees. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government offered alternatives to refugee claimants whose cases were refused by the Immigration and Refugee Board. The option for judicial review through the Federal Court exists. Two other remedies of last resort are available through the Department of Citizenship and Immigration, including a “pre-removal risk assessment” as well as an appeal to the minister of citizenship and immigration for a waiver based on humanitarian and compassionate grounds. The government accepted refugees for resettlement from third countries and facilitated local integration (including access to naturalization), particularly of refugees in protracted situations.

The government also provided temporary resident permits to foreign nationals who may not qualify as refugees, may be inadmissible, or did not meet immigration and refugee law requirements.

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

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

*Elections and Political Participation.*—In the British Columbia provincial general election held on May 12, the British Columbia Liberal Party, led by Gordon Campbell, formed its third successive majority government. In the Nova Scotia provincial general election held on June 9, the New Democratic Party (NDP), led by Darrell Dexter, won a majority government and formed the first NDP government in the province’s history after 10 years of rule by the Progressive Conservative Party. The provincial elections were free and fair. Political parties operated without restriction or outside interference.

There were 68 women and five indigenous people in the 308-member federal House of Commons. There were 34 women and six indigenous people in the 105-seat Senate (whose members are appointed by the government). Women held 11 seats in the 38-member cabinet. The governor-general and four of the nine members of the Supreme Court, including the chief justice, were women.

On March 11, the Chief Electoral Officer testified that some indigenous people were unable to establish their residency for voting purposes in the October 2008 general election due to a lack of, or difficulty in obtaining, authorized identification with a home address.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government generally enforced these laws effectively. There were isolated reports of government corruption during the year. The Federal Accountability Act provides for transparency and accountability in government. The Office of the Public Sector Integrity Commissioner reports annually on allegations of corruption. On June 30, the government appointed the first Commissioner of Lobbying to administer the 2008 Lobbying Act, including a new national registry of lobbying activity.

A conflict of interest and ethics commissioner administers the conflict of interest code for members of the House of Commons, as well as the Conflict of Interest Act in relation to public office holders. Provincial governments provide independent audits of government business and ombudsman services. Public officials are not subject to financial disclosure laws for personal assets.

The law permits public access to government information, and in practice the government granted access for citizens and noncitizens, including foreign media. The law provides for denial of legal requests for information on limited and specific grounds, for which reasons are given and cited in law, and there is a mechanism to appeal denials. The government released quarterly information on the public expenditures of senior government officials and also published expense information on individual ministerial Web sites and on a centralized Web site.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

The government cooperated with international governmental organizations and permitted visits by UN representatives. From October 13 to 23, the UN Independent Expert on Minority Issues met with government officials and nongovernmental organizations (NGOs) in Ottawa, Toronto, Montreal, and Vancouver (see section 6, National/Racial/Ethnic Minorities). Also in October, officials from the country's Office of the UNHCR visited 76 ethnic Sri Lankan Tamils detained by the Canadian Border Services Agency after they arrived off the coast of British Columbia in a suspected human-smuggling incident.

Federal and provincial human rights commissions enjoyed government cooperation, operated without government or party interference, and had adequate resources. Observers considered them effective. Parliamentary human rights committees operated in the House of Commons and the Senate. The committees acted independently of government, conducted public hearings, and issued reports and recommendations to which the government provided written, public, and timely responses.

In July the government complied with an order of the Federal Court of Canada and facilitated the return to Canada of Abousifian Abdelrazik, a Canadian-Sudanese dual national, after the Court determined that Canadian officials had been complicit in his detention in Sudan in 2003 on suspicion of links to terrorism. The Security Intelligence Review Committee, a federal watchdog for the domestic security and intelligence community, announced that it would investigate Abdelrazik's formal complaint concerning the alleged involvement of Canadian security agencies in his detention. In September Abdelrazik filed suit against the federal government, alleging that it was responsible for his detention and abuse in Sudan and had obstructed his repatriation. The suit sought monetary compensation and a formal apology from the government. The case remained pending at year's end.

In February three Muslim dual citizens filed amended lawsuits against the federal government based on the October 2008 report of a judicial inquiry into the role Canadian officials may have played in their detention and alleged abuse in Syria and/or Egypt on suspicion of links to terrorism. The complainants' suits alleged that the government facilitated their detention and abuse. The suits sought monetary compensation for the complainants as well as a formal apology from the government. The case remained pending at year's end.

On November 13, the Supreme Court heard an appeal by the federal government of a June Federal Court of Appeal decision upholding a lower court order that the government must seek the repatriation of Canadian citizen Omar Khadr from Guantanamo Bay. The lower court had ruled that the government's refusal to request Khadr's repatriation offended a principle of fundamental justice and violated his rights. The federal government had argued that foreign affairs decisions are the exclusive domain of the prime minister and his cabinet. The Supreme Court's decision was pending at year's end.

On October 29, a Quebec court sentenced Desire Munyaneza, a Rwandan national who entered the country in 1997 claiming refugee status, to life in prison with no eligibility for parole for 25 years. In May Munyaneza was convicted on seven counts of genocide, crimes against humanity, and war crimes committed during the 1994 Rwandan genocide. The trial was the first under the country's Crimes against Humanity and War Crimes Act. In November Munyaneza filed notice to appeal.

On November 7, authorities arrested Jacques Mungwarere, a Rwandan immigrant, on war crimes charges related to the 1994 Rwandan genocide. Mungwarere was the second individual to be charged under the country's Crimes against Humanity and War Crimes Act.

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

The law provides for equal benefits and protection of the law regardless of race, gender, national or ethnic origin, age, language, social status, or disability; the government effectively enforced these provisions.

*Women.*—Although prohibited by law, rape and violence against women, including spousal rape and abuse, occurred. The government's statistical office reported there were 63 sexual assaults per 100,000 persons in 2008, down from 65 in 2007, as well as 491 reported cases of aggravated sexual assault and assault with a weapon causing bodily harm.

The law prohibits domestic violence. Although the criminal code does not define specific domestic violence offenses, an abuser can be charged with an applicable offense, such as assault, aggravated assault, intimidation, mischief, or sexual assault. Persons convicted of assault may be penalized with up to five years in prison. Assaults involving weapons, threats, injuries, or endangerment of life carry prison sentences up to 14 years. Sexual abuse may be penalized with up to 10 years in prison. Aggravated sexual assaults involving weapons, and committed for the benefit of, at the direction of, or in association with, a criminal organization carry sentences between four years and life imprisonment. Studies indicated that victims of domestic violence and spousal abuse underreported incidents.

Indigenous (Aboriginal) people were more than three times more likely to be victims of spousal violence than nonindigenous persons.

The federal statistical agency reported that there were approximately 569 shelters for abused women; the shelters provided emergency care, transition housing, and long-term assistance. Shelters admitted more than 101,000 women and children in 2008, of whom approximately three-quarters had fled abusive situations. The government's family violence initiative involved 12 departments and a cabinet ministry—Status of Women Canada. These entities worked to eliminate systemic violence against women and advance women's human rights.

On August 26, the Manitoba government, RCMP, and Winnipeg Police Service established the Manitoba Integrated Task Force for Missing and Murdered Women to review unsolved homicide cases and missing-persons files of female victims in the province. At least 75 women, almost all Aboriginal, have disappeared in the province over the last two decades, according to Aboriginal groups.

Adult prostitution is not illegal, but the law prohibits pimping (benefiting from the earnings of prostitution of another); operating, being found in, or working in a brothel; and communicating in a public place for the purpose of engaging in prostitution. Prostitution exists throughout the country, particularly in major urban centers.

The law does not contain a specific offense of "sexual harassment" but criminalizes harassment (stalking), punishable by up to 10 years' imprisonment, and sexual assault, with penalties ranging from 10 years for nonaggravated sexual assault to life imprisonment for aggravated sexual assault. The government generally enforced these prohibitions. Most harassment cases were settled out of court.

Couples and individuals freely exercised their reproductive rights. The publicly funded medical system provided access to contraceptive services and information, prenatal care, skilled attendance during childbirth, and essential obstetric and postpartum care. Women had equal access with men to diagnosis and treatment for sexually transmitted infections, including HIV.

Women were well represented in the labor force, including business and the professions, and did not experience economic discrimination. Status of Women Canada, headed by a cabinet-level minister, promoted the legal rights of women. According to the federal statistical agency, 62.8 percent of women age 15 and older were employed in the workforce in 2008. Employment equity laws and regulations cover federal employees in all but the security and defense services. Women have marriage and property rights, as well as rights in the judicial system, equal to those of men. However, Aboriginal women living on reserves (where land is held communally) lack matrimonial property rights.

*Children.*—The country provided universal birth registration, and citizenship was derived both by birth within the country's territory and from one's parents.

The country was a destination for child sex tourism. Under penalties for child prostitution, persons convicted of pimping a child under age 18 face between two and 14 years' imprisonment; Persons who aid, counsel, compel, use, or threaten to use, violence, intimidation or coercion in relation to a child under age 18 to engage in prostitution face between five and 14 years' imprisonment. Persons who solicit or obtain the sexual services of a child under age 18 face between six months' and five years' imprisonment.



The minimum age of consensual sex is 16 years. The country does not have a statutory rape law but prosecutes a range of sexual offenses against children, including sexual interference, sexual touching and invitation to sexual touching, and sexual exploitation. Penalties for each offense range from 14 days to 10 years' imprisonment.

The law prohibits child pornography, including the production, distribution, accessing, and possession of child pornography. Police services reported 464 incidents of child-luring over the Internet between 2006 and 2007, an increase of 31 percent over the previous year, although the national statistical agency estimated the number of reported cases to represent only 10 percent of actual cases. Maximum penalties range from 18 months' imprisonment for summary offenses to 10 years' imprisonment for indictable offenses. On December 4, the Supreme Court broadened the legal interpretation of child-luring over the Internet, ruling that defendants do not have to meet, or intend to meet, the victim to commit the offense.

*Trafficking in Persons.*—The law prohibits trafficking in persons for all purposes; however, the country was a source, transit point, and destination for men, women, and children trafficked for the purposes of forced labor and sexual exploitation.

NGOs estimated that 2,000 persons were trafficked into the country annually, while the RCMP estimated 600 to 800 persons, with an additional 1,500 to 2,200 persons trafficked through the country into the United States. Many victims were Asians and Eastern Europeans, but a significant number also came from Africa, Latin America, and the Caribbean. Women and children were trafficked for sexual exploitation; on a lesser scale, men, women, and children were trafficked for forced labor. Some girls and women, most of whom were Aboriginal, were trafficked internally for commercial sexual exploitation.

Traffickers tended to be members of larger criminal organizations, members of small criminal groups, or individual criminals. Organized crime groups were involved in transnational trafficking to varying degrees.

Vancouver, Montreal, and Toronto served as hubs for organized crime groups trafficking in persons, including for prostitution. East Asian crime groups targeted the country, Vancouver in particular, to exploit immigration laws, benefits available to immigrants, and the proximity to the U.S. border.

The law criminalizes trafficking in persons and prohibits global and internal trafficking in persons, benefiting economically from trafficking in persons, and withholding or destroying documents to facilitate trafficking in persons. The Immigration and Refugee Protection Act establishes criminal penalties of up to life in prison and fines of up to one million Canadian dollars (\$953,000) for convicted cross-border traffickers. The government prosecutes all forms of human trafficking, including forced labor, in addition to trafficking-related acts such as kidnapping, forcible confinement, uttering threats, sexual assault, prostitution-related crimes, and extortion. The law also permits domestic prosecution of citizens and residents who engage in illegal sexual activity with children overseas.

Twenty-four antitrafficking prosecutions were pending before provincial courts, involving 15 accused offenders at year's end. There were no trafficking convictions during the year.

The government has an interdepartmental working group consisting of 17 departments and agencies and cochaired by senior officials from the Departments of Justice and Public Safety to combat trafficking in persons. The RCMP has six regional human trafficking awareness coordinators who conduct law enforcement training programs to sensitize officers to trafficking realities, train officers to identify potential victims, and provide information on the trafficking sections of the criminal code. The Canadian Border Services Agency has 56 specially trained migration integrity officers who collect and report intelligence information on organized human trafficking.

During the year the government's interdepartmental working group on trafficking coordinated with British Columbia's Office to Combat Trafficking in Persons, the Vancouver Police, and the Vancouver Olympic Committee to incorporate antitrafficking measures into the Olympics' broader security plan.

The government, in conjunction with nongovernmental organizations, supports a 24-hour tipline for the public anonymously to report suspected cases of human trafficking.

On December 1, the Salvation Army opened a 10-bed facility in Vancouver for female victims of sex trafficking.

Through agencies such as Interpol, the government assisted other countries with criminal investigations of trafficking cases and cooperated with law enforcement authorities in neighboring and source countries.

Officials may grant a temporary residence permit (TRP) of 180 days (or longer, in special meritorious cases) to provide a reflection period for the victim and an in-

vestigative window for law enforcement to determine whether there is enough evidence to pursue a trafficking case. During this 180-day period, immigration officials determine whether a longer residency period of up to three years may be warranted. Victims of trafficking who receive a TRP are eligible for health-care benefits and trauma counseling and may also apply for a work permit. Victims of trafficking are not required to testify against their trafficker to gain temporary or permanent resident status. In addition to legal status under a TRP, trafficking victims may also apply for assistance from victim assistance funds maintained by provincial governments.

In April the government granted Cdn\$100,000 (\$95,000) to the Assembly of Manitoba Chiefs to raise awareness of human trafficking for sexual exploitation of Manitoba First Nations women and children and to undertake resource and strategic development aimed at prevention and protection.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services or in other areas, and the government effectively enforced these prohibitions. The government effectively implemented laws mandating access to buildings for persons with disabilities.

The federal, provincial, and territorial governments share responsibility for protecting the rights of persons with disabilities. The Office for Disability Issues, the federal government's focal point, funded a range of programs, including programs to enable participation of persons with disabilities in the workforce, to improve physical accessibility infrastructure, to build the capacity of the voluntary sector, and to raise public education and awareness of disability issues.

*National/Racial/Ethnic Minorities.*—The Charter of Rights and Freedoms protects the linguistic and cultural rights of minorities and establishes English and French as the country's two official languages. Despite the federal policy of bilingualism, native English speakers in Quebec (5.7 percent of the province's population in 2006) and French speakers in other parts of the country generally lived and worked in the language of the majority. Provinces may grant French or English the status of an official language, but only New Brunswick has granted the two languages equal status.

The Charter of the French Language in Quebec makes French the official language of the province; requires the use of French in commerce, the workplace, education, and government; and protects minority language rights. The charter also restricts access to publicly funded English-language education to children who have received or are receiving elementary or secondary instruction in English and whose parents are citizens, and to students who are temporary residents in the province or have serious learning disabilities and who have obtained a waiver.

On October 22, the Supreme Court declared unconstitutional a 2002 Quebec language-protection law that limited access to English-language schools for students. The law closed a legal loophole that allowed parents to send their children to English-language public schools under limited circumstances. The court suspended the effects of its ruling for one year to allow the Quebec government to redraft the legislation.

In a preliminary report following a visit to the country in October, the UN Independent Expert on Minority Issues stated that the country's Muslim communities feared "unsubstantiated use" of security certificates, racial profiling, and harassment by police. The Independent Expert also found "uneven and unclear" human rights protections for all minorities due to the independent authority of human rights commissions in each province and lack of federal oversight.

Complainants reported at least three incidents of alleged racially motivated assault and harassment of Asian-Canadian recreational anglers in the Simcoe, Ontario, region during the 2008-09 fishing season. Police increased presence in the area, and launched a public awareness campaign. Authorities included an antiracism message in 2009 fishing regulations. In September one individual pled guilty to assault in a 2007 incident and received a conditional discharge and probation. Police dropped charges in connection with two other alleged racially motivated assaults on Asian fisherman in 2007 and 2008. On December 15, an Ontario court convicted one individual of two counts of criminal negligence causing bodily harm and four individuals of aggravated assault following a 2007 racially motivated attack on recreational fishermen in the Lake Simcoe area.

On May 25, Quebec authorities opened a coroner's inquest into the August 2008 shooting death by Montreal police of a teenage immigrant from Honduras. The inquest continued at year's end.

*Indigenous People.*—The law recognizes three different groups of indigenous (also known as Aboriginal) people: Indians (generally called First Nations), Inuit (formerly called Eskimos), and Metis (persons of mixed Indian-European ancestry). According to the 2006 census, indigenous people constituted approximately 4 percent of the national population and higher percentages in the country's three territories: Yukon, 25 percent; Northwest Territories, 50 percent; and Nunavut, 85 percent. Disputes over land claims, self-government, treaty rights, taxation, duty-free imports, fishing and hunting rights, and alleged harassment by police continued to be sources of tension. Indigenous people remained underrepresented in the workforce, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide, poverty, and sexual violence than other groups. A 2008 review by the federal auditor general reported that authorities placed Aboriginal children in protective public care facilities at a rate eight times higher than children in the general population.

The law recognizes and specifically protects indigenous rights, including those established by historical land claims settlements. Treaties with indigenous groups form the basis for the government's policies in the eastern part of the country, but there were legal challenges to the government's interpretation and implementation of treaty rights. Indigenous groups in the west that never signed treaties continued to claim land and resources, and many continued to seek legal resolution of outstanding issues. As a result the evolution of the government's policy toward indigenous rights, particularly land claims, frequently depended on legal challenges. According to an August Amnesty International report, approximately 60 Aboriginal claims over territory previously excluded from treaty making remained unresolved. An additional 765 specific claims related to interpretation of historic treaties remained unresolved.

During the year the CHRC received 20 complaints against the federal government in the areas of eligibility for status as a First Nations person and access to health and educational services for those who live off-reserve.

In June the government appointed a new chairman for the Indian Residential Schools Truth and Reconciliation Commission following the resignation of all the original members in 2008. On October 15, the governor general relaunched the commission to examine abuse that indigenous children sustained in residential schools in the 20th century.

The Specific Claims Tribunal, created in 2008, has the authority to issue binding decisions on Aboriginal grievances relating to treaties that are rejected for negotiation or where negotiations fail. The tribunal had not registered any judgments at year's end.

In August former students of Aboriginal day schools in Manitoba filed suit against the federal government for Cdn \$15 billion (\$14.3 billion) for alleged abuse suffered in the schools. The claimants sought to have the case adopted as a class-action suit to cover an estimated 70,000 former Aboriginal day students across the country.

In June the government launched a "Federal Framework for Aboriginal Economic Development" to promote government collaboration, private-sector partnerships, skills development, and easier access to capital for the Aboriginal community. Through the framework, the government committed C\$200 million (\$191 million) over four years to enable economic use of land, improve access to commercial capital, promote Aboriginal procurement of goods and services at market rates, and strengthen Aboriginal participation in key economic areas.

In August the government announced the creation of the Northern Economic Development Agency, located in Nunavut territory, to foster economic and social development and better environmental stewardship in the North. The government dedicated funds to six geosciences programs for mining industry explorations in Nunavut and funds to a program aimed at strengthening and diversifying Nunavut's fishing industries.

In November the Nisga'a First Nation in northwestern British Columbia became the first self-governing Aboriginal nation in the country to pass legislation allowing private property rights on Aboriginal land.

On January 28, the government reiterated its previously rejected Cdn \$26 million (\$24.8 million) offer in 2007 to settle one of the four land claims of the Haudenosaunee/Six Nations in Ontario. The disputed site had been occupied since 2006. Consultations on the government's offer continued at year's end.

The government continued the process of claim settlements and self-government negotiations with more than 350 First Nations communities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were rare reports of societal violence or discrimination based on sexual orientation. The law prohibits discrimination based on sexual orientation, and the criminal code provides penalties for crimes motivated by bias,

prejudice, or hate based on personal characteristics, including sexual orientation. Lesbian, gay, bisexual and transgender organizations operated independently and without restriction. Federal, provincial, and municipal governments authorized, and sometimes provided financial support for, gay pride marches in communities across the country and provided police protection to marchers. There was no official discrimination based on sexual orientation in employment, housing, or access to education or health care.

In July the Nova Scotia Human Rights Commission opened an investigation into a complaint by an individual formerly employed by a provincial youth facility that he experienced severe and prolonged sexual harassment in the workplace based on his sexual orientation. The case remained pending at year's end.

In July a gay man filed a complaint with the Ontario Human Rights Tribunal after his parish priest removed him from his volunteer position as a church altar server because of his sexual orientation.

In July a lesbian couple filed a complaint with the Manitoba Human Rights Commission alleging that a family doctor declined to accept them as patients because their sexual orientation offended her religious beliefs and because she had no experience treating gay patients. The case was pending at year's end.

On July 22, a Saskatchewan court upheld a 2008 Saskatchewan Human Rights Tribunal ruling that a provincial marriage commissioner had discriminated against a gay couple when he refused to perform their same-sex ceremony on the grounds that the law violated his charter right to freedom of religion.

#### Other Violence or Societal Discrimination

There were no known reports of societal violence or discrimination against persons with HIV/AIDS. The criminal code provides penalties for violence against individuals. Courts generally interpreted prohibitions against discrimination on the basis of disability in federal and provincial human rights statutes to include discrimination against persons with HIV/AIDS.

#### Section 7. Worker Rights

*a. The Right of Association.*—The law allows workers in both the public (except armed forces and police) and the private sectors to form and join unions of their choice without previous authorization, and workers did so in practice. The law allows unions to operate without government interference. An estimated 30 percent of the civilian labor force belonged to a trade union.

All workers, except for those in the public sector who provide essential services, have the right to strike, and workers exercised this right in practice. Workers in essential services had recourse to binding arbitration if labor negotiations failed. The law prohibits employer retribution against strikers and union leaders, and the government generally enforced this provision in practice.

*b. The Right to Organize and Bargain Collectively.*—The law protects collective bargaining, and the government effectively enforced this right in practice. An estimated 25 percent of workers were covered by collective agreements. The law prohibits antiunion discrimination and employer interference in union functions, and the government protected this right in practice.

On December 17, the Supreme Court heard an appeal by the Ontario government of a November 2008 Ontario Court of Appeal ruling that struck down a provincial law prohibiting an estimated 32,000 agricultural workers (including foreign migrants) from bargaining collectively. The court's decision remained pending at year's end.

On November 27, the Supreme Court upheld the right of a company to terminate its operations. The United Food and Commercial Workers Union had alleged that a store in Jonquiere, Quebec, violated provincial labor laws and workers' constitutional rights by closing in 2005, six months after receiving union certification and days before a provincially appointed labor arbitrator was to present the parties with a mandatory contract settlement.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that adults and children were trafficked into the country for the purpose of forced labor in the agricultural sector, domestic servitude, and prostitution.

On December 9, Ontario passed a law to protect foreign caregivers in the province from abuse by recruiters and employers. The law prohibits employers from confiscating a worker's personal documents such as a passport or work permit and prohibits recruiters from charging fees to live-in caregivers.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor legislation varies by province. The federal government employs youths under age 17

only while school is not in session and in work unlikely to endanger health or safety. Most provinces restrict the number of hours of work, and prohibit children under age 15 or 16 from working without parental consent, at night, or in any hazardous employment.

Inspections by federal and provincial labor ministries effectively enforced child labor laws and policies.

*e. Acceptable Conditions of Work.*—The federal government sets minimum wage rates for federally regulated employees covered by the Canada Labour Code, and provincial and territorial governments through their respective employment standards laws, and enforced them effectively. Some provinces have minimum wage boards that represent the interests of employers and employees, and may recommend nonbinding changes to rates. Four provinces have legislation requiring an annual or biennial review of the minimum wage, but no governments have a legislated obligation to increase or otherwise modify rates. Minimum wage rates ranged from Cdn\$8.00 to Cdn\$10.00 (\$7.60 to \$9.50). Some provinces exempt agricultural and other specific categories of workers from minimum wage rates, and Ontario and British Columbia have a minimum wage rate for youths lower than their respective minimums for adult workers. The minimum wage did not provide a decent standard of living for a worker and family. The federal statistical agency calculates annual averages, or Low Income Cut Offs (LICOs), below which individuals and families spend significantly more on food, shelter, and necessities than the average. During the year the national LICO for a family of four with a before-tax income of less than Cdn\$40,259 (\$38,300) qualified as low income.

Standard work hours vary by province, but in each the limit is 40 or 48 hours per week, with at least 24 hours of rest. The law requires payment of a premium for work above the standard workweek. Authorities effectively enforced these standards. There is no specific prohibition on excessive compulsory overtime, which is regulated by means of the required rest periods in the labor code that differ by industry.

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 monitored and enforced these standards, and conducted inspections proactively through scheduled visits, reactively in response to complaints, and at random. Enforcement measures included a graduated response, with a preference for resolution via voluntary compliance, negotiation, and education, and prosecution as a last resort. Some trade unions argued that resources limited capacity effectively to conduct proactive inspection and enforcement. Federal, provincial, and territorial laws protect the right of workers with “reasonable cause” to refuse dangerous work and remove themselves from hazardous work conditions, and authorities effectively enforced this right.

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## CHILE

Chile is a multiparty democracy with a population of approximately 16 million. On December 13, in free and fair elections voters chose Sebastian Pinera Echenique of the center-right Coalition for Change and Eduardo Frei Ruiz-Tagle of the center-left Concertacion coalition as the two presidential candidates for a runoff election scheduled for January 17, 2010. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. There were isolated reports of excessive use of force and mistreatment by police forces, physical abuse in jails and prisons, and generally substandard prison conditions. The government generally took steps to investigate and punish abusers. Domestic violence against women and children was widespread. There were incidents of trafficking in persons. Some indigenous people suffered discrimination. Many children were employed in the informal economy.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings. However, on August 12, in Ercilla, police shot and killed Jaime Mendoza, who had joined an occupation of private land organized by indigenous persons. A military court indicted a police corporal for the shooting; he remained free on bail, and the case was pending at year’s end (see section 6, Indigenous People). The case against another police corporal for the January

2008 shooting of Matias Catrileo in similar circumstances was pending at year's end (see section 6, Indigenous People).

On September 4, the Rancagua Appeals Court indicted Juan Rivera and Walter Medina, former members of the uniformed national police (Carabineros), for the 1988 killings of Manuel Rodriguez Patriotic Front activists Raul Pellegrini and Cecilia Magni. Two other former Carabineros were indicted in 2007 for their role in the same killings. Both cases remained pending at year's end.

On December 7, Judge Alejandro Madrid charged six persons in the poisoning death of former president Eduardo Frei Montalva in 1982. A National Intelligence Directorate (DINA) agent, a doctor, and Frei's driver (who allegedly worked secretly for DINA) were charged with murder; two other doctors who allegedly falsified the autopsy were charged as accessories to the crime, and another doctor was charged as an accomplice.

On September 8, Judge Alejandro Madrid charged seven former army officials with obstruction of justice in the case of dual Chilean-Spanish citizen Carmelo Soria, who was killed by DINA agents in 1976. One of the seven, Sergio Cea, was the military prosecutor in charge of investigating Soria's death in 1993. The case remained pending at year's end.

On January 29, the Santiago Appeals Court upheld the June 2008 convictions of nine former DINA agents, including former DINA director Manuel Contreras and two civilians, for the 1974 car bomb assassination of former army commander Carlos Prats and his wife in Buenos Aires, Argentina. An appeal was pending before the Supreme Court at year's end.

On September 7, the Supreme Court convicted and sentenced five former DINA agents, including Manuel Contreras, to 10 years in prison for the 1974 death of Lumi Videla. Another former DINA agent was sentenced to five years for the same killing. The Supreme Court also convicted two of the six DINA agents for the disappearance of Videla's husband, Sergio Perez (see section 1.b.).

Judge Jorge Zepeda's investigations of retired security officer Rafael Gonzales, charged in connection with the 1973 killings of U.S. citizens Charles Horman and Frank Teruggi, remained pending at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Courts prosecuted a number of historical cases based on plaintiffs' arguments that the abduction of political prisoners constituted a continuing crime, not covered by amnesty, unless the subsequent execution of the prisoner could be established concretely by identification of remains. The Supreme Court upheld a number of convictions based on indefinite or permanent kidnapping. In other cases the courts upheld the statute of limitations or lessened sentences, allowing the convicted persons to serve time outside of prison.

There were no developments in Judge Jorge Zepeda's investigation into the 1985 disappearance case of U.S. citizen Boris Weisfeiler.

On September 1, Judge Victor Montiglio reportedly issued 129 indictments of former members of the army, air force, navy, Carabineros, plainclothes Investigations Police (PDI), and prison system (Gendarmeria) for "permanent kidnappings" perpetrated by DINA agents from 1974 to 1976 in "Operation Colombo," "Operation Condor," and "Calle Conferencia." "Operation Colombo" covered up DINA detentions of 119 Chileans by placing false media reports in Argentina and Brazil stating that the disappeared individuals had died in those countries. "Operation Condor" was a 1970s intelligence-sharing operation among South American dictatorships that included Chile and coordinated assassinations within countries and across international borders. "Calle Conferencia" refers to the 1976 detentions and disappearances of Communist Party leaders.

On September 7, the Supreme Court convicted and sentenced three former DINA agents, including Manuel Contreras, to five years in prison for the 1974 disappearance of Sergio Perez. One of the three was allowed to serve time outside of prison. The Supreme Court also convicted two of the three for the 1974 murder of Perez's wife, Lumi Videla (see section 1.a.).

A criminal court investigation of the 1974 disappearance of Gloria Lagos Nilsson remained pending at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution prohibits such practices, nongovernmental organizations (NGOs) received reports of abuse and mistreatment by the Carabineros, the PDI, and prison guards. Few reports of abuse or mistreatment led to convictions.

The Gendarmeria opened administrative investigations into 88 allegations of abuse during the year, compared with 107 such cases in 2008. Of the new cases, one resulted in officials receiving sanctions, 11 were closed, and 76 were pending at year's end.

On September 25, the Supreme Court convicted and sentenced retired air force officers Edgar Cevallos and Ramon Caceres to three years in prison for torturing 17 individuals between 1973 and 1975 at the Air Force War Academy. The court permitted the convicted to serve time outside of prison. This was the first Supreme Court ruling on a torture case from the dictatorship era, and it was the country's first ruling to identify torture as a crime against humanity.

*Prison and Detention Center Conditions.*—Prison conditions generally were poor. Prisons often were overcrowded and antiquated, with substandard sanitary conditions. At year's end there were approximately 52,260 prisoners in prisons designed to hold 35,845 inmates. Prisoners included 4,255 women, who are held in separate sections of the same facilities, and 1,411 minors held in specially designated facilities. Prisons in the Santiago Metropolitan Region (RM) were at nearly double their capacity. The 2009 Diego Portales University Law School Annual Report on Human Rights reiterated that overcrowded prisons with substandard sanitary, food, and medical services were a problem in some prisons; it also described cases of prisoner abuse and use of excessive force. The report added that space and hygiene conditions in privately operated prisons were considerably better than those in publicly run prisons.

In isolated instances prisoners died due to lack of clear prison procedures and insufficient medical resources. Prison officials reported that there were 73 deaths from preventable causes during the year, compared with 63 in 2008; in the same period, 60 inmates had been killed by other prisoners, and 13 had committed suicide. Prisoners with HIV/AIDS and mental disabilities allegedly failed to receive adequate medical attention in some prisons.

On April 26, 10 inmates died in a cell fire started during a fight between rival gangs at the Colina II penitentiary center. A prosecutor was assigned to investigate, and the case was pending at year's end.

On June 2, Supreme Court prosecutor Monica Maldonado presented to the Senate's Constitution, Legislation, and Justice Committee a report on the prison system, which concluded that the system lacked rehabilitative policies and actions and that overcrowding led to degrading living conditions.

A March 2008 UN Children's Fund report on the more rehabilitative juvenile justice system established under a 2007 reform law noted deficient implementation of schooling and training programs, a lack of appropriate medical attention and administration of medicines, the use of solitary confinement despite its prohibition in the law, and the absence of segregation of youths by age and gender. At year's end approximately 1,400 minors were incarcerated in the new system, of whom nearly 850 were held provisionally during their trial.

On December 9, an agreement to stay proceedings conditionally was reached in the case of six former employees of the National Children's Service (SENAME) charged with manslaughter for the April 2008 death of 10 adolescents in their care at the Tiempo de Crecer juvenile detention center in Puerto Montt.

The government permitted prison visits by independent human rights observers, and such visits took place at both government-run and privately operated facilities. Prisoner rights and human rights groups continued to investigate alleged use of abuse or excessive force against detainees.

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

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the Carabineros, overseen by the Ministry of Defense, and the PDI, overseen by the Ministry of the Interior. The government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Only public officials expressly authorized by law can arrest or detain citizens. Authorities must immediately inform a prosecutor of an arrest and generally did so in practice.

The prosecutor must open an investigation, receive a statement from the detainee, and ensure that the detainee is held at a local police station until the detention control hearing. Detention control hearings are held twice daily, allowing for a judicial determination of the legality of the detention within 24 hours of arrest. Detainees must be informed of their rights, including the right to an attorney and the right to remain silent until an attorney is present. Public defenders are provided to detainees if they do not select a lawyer of choice. Authorities must expedite notification of the detention to family members. If authorities do not inform the detainees of their rights upon detention, the process can be declared unlawful by the judge during the detention control hearing.

The law allows judges to set bail, grant provisional liberty, or order continued detention as necessary to the investigation or for the protection of the prisoner or the public.

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. Regular visits by family members are allowed.

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

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. National and regional prosecutors investigate crimes, formulate charges, and prosecute cases. Three-judge panels form the court of first instance; the process is oral and adversarial, trials are public, and judges rule on guilt and dictate sentences. Court records, rulings, and findings were generally accessible to the public.

The law provides for the right to legal counsel, and public defender's offices in all 14 regions and the Santiago RM provide professional legal counsel to anyone seeking such assistance. When requested by other human rights organizations or family members, the NGO Corporation for the Promotion and Defense of the Rights of the People and other lawyers working pro bono assisted detainees during interrogation and trial. Defendants enjoy a presumption of innocence and have a right of appeal.

For crimes committed prior to the implementation of the 2005 judicial reforms, criminal proceedings are inquisitorial rather than adversarial. In 2008 authorities closed four of the six remaining inquisitorial criminal courts in the Santiago RM, and all prereform cases faced extensive waits for trial. At year's end the two remaining inquisitorial criminal courts remained open.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees, although a number of inmates convicted of terrorist acts following the return to democracy in 1990 claimed to be political prisoners.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, which permits access for lawsuits regarding human rights violations. However, modernization of the judiciary has not affected the civil justice system, which was characterized by antiquated and inefficient procedures. The average civil trial lasted approximately five years, and civil suits could continue for decades. There are administrative as well as judicial remedies available for alleged wrongs.

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

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice, subject to certain legal restrictions.

Human rights groups and press associations criticized the existence and application of laws that prohibit insulting state institutions and that allow government officials to bring charges against journalists who insult or criticize them. Military courts may charge and try civilians for defamation of military personnel and for sedition, but their rulings can be appealed to the Supreme Court.

Two major media groups, which were largely independent of the government, controlled most of the print media. The government was the majority owner of *La Nacion* newspaper but did not directly control its editorial content. International print media operated freely.

The broadcast media generally were independent of direct government influence. The Television Nacional network was state owned but not under direct government control. It was self-financed through commercial advertising, editorially independent, and governed by a board of directors appointed by the president and approved by the Senate.

The government-funded National Television Council (CNTV) is responsible for ensuring that television programming respects "the moral and cultural values of the nation." The CNTV's principal role is to regulate violence and sexual explicitness in both broadcast and cable television programming. Films and other programs judged by the CNTV to be excessively violent, have obscene language, or depict sexually explicit scenes may be shown only after 10 p.m., when "family viewing hours" end. The CNTV occasionally levied fines or pressured stations to reschedule programs.

On January 27, the general prosecutor requested a 15-year sentence for documentary filmmaker Elena Varela Lopez, charged with "illegal association with intent to



commit an offense” and “links with a terrorist group” related to bank raids in 2004-05. In May 2008 authorities arrested Varela while she was covering the conflict between lumber companies and the Mapuche indigenous group and confiscated her equipment and 300 videotapes. She was released from custody after three months but placed under nighttime house arrest, which continued at year’s end.

*Internet Freedom.*—There were no government restrictions on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. While the PDI maintained a cybercrime unit that monitored Web sites for financial crimes and child pornography, there were no reports that the government monitored e-mail or Internet chat rooms for other purposes. The International Telecommunication Union reported that there were 32 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—There were reports of anti-Semitic incidents during the year, such as acts of vandalism, verbal slurs, and online harassment. On January 4, an unidentified individual called the police with a death threat to Jewish teenagers who were participating in a summer camp in Pirque. There were approximately 15,000 members of the Jewish community.

Neo-Nazi and skinhead groups engaged in gang-type criminal activities and violence against immigrants, homosexuals, punk rockers, and anarchists, including killing a punk rocker by a skinhead. Some skinhead groups shared the anti-Semitic rhetoric of neo-Nazi groups. On December 1, skinhead and former leader of a neo-Nazi group Elliot Quijada was arrested for disseminating xenophobic messages after harassing a chamber deputy and writing hostile messages against Jews on Web sites.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits forced exile, and it was not used.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinions. Between January and December, 185 residents were given recognized refugee status for a total of 1,539 residents with that status at year’s end. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. Refugees may be naturalized after five years of permanent residency if they demonstrate financial independence and have no criminal record.

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

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

*Elections and Political Participation.*—On December 13, voters in free and fair elections chose Sebastian Pinera Echenique of the center-right Coalition for Change and Eduardo Frei Ruiz-Tagle of the center-left Concertacion coalition as the two presidential candidates for a runoff election scheduled for January 2010. On December 13, voters also elected 18 of the 38 senators and all members of the Chamber of Deputies in elections generally considered free and fair. Political parties can operate without restriction or outside interference.

Of the candidates elected on December 13, 17 of 120 members of the Chamber of Deputies and five of the 38 members of the Senate (including three of the 18 newly elected senators) were women. There were 10 women in outgoing President

Bachelet's 22-member cabinet; women filled 28 percent of governmental appointments in her administration. However, women continued to be underrepresented among elected officials, constituting, for instance, only 12 percent of mayors.

Indigenous people have the legal right to participate freely in the political process, but relatively few were active. No member of the legislature or the cabinet was known to be of self-identified indigenous descent.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

On January 20 and July 2, the former administration manager of the State Railroad Company, Claudio Carreno, was convicted of fraud for acts that in 2005-06 generated a loss of 371 million pesos (approximately \$706,000) in public funds. Carreno received two sentences of 600 days in prison, fines totaling 17 million pesos (approximately \$33,500) plus a third of the costs of both trials, and a suspension from public office during the prison sentence.

On April 30, former Ministry of Education employee Franka Grez was convicted of 19 counts of embezzlement of public funds. While Grez served in the accounting and finance section of the ministry, she approved subsidy payments to a school inspector and his wife, who were also convicted. Grez was sentenced to 11 years in prison; the inspector and his wife were sentenced to seven years in prison. The three also had to repay the 290 million pesos (approximately \$571,000) they embezzled.

Between April and December, 17 individuals from two corruption rings within the judicial system were convicted of crimes including criminal association, bribery, falsification of public documents, and obstruction of an investigation. The separate but related criminal rings falsified certifications that a prisoner had completed time, misplaced files, and falsified judicial decisions. Those convicted included six current and two former PDI officers, two Carabineros, and two judicial officials.

The law makes public officials subject to financial disclosure and assigns responsibility to the comptroller for conducting audits of government agencies and to the Public Prosecutor's Office for initiating criminal investigations of official corruption.

The constitution requires the government and its agencies to make all unclassified information about their activities available to the public. On April 20, the Transparency of the Public Administration and Access to Information Law went into effect. This law regulates government transparency and public access to information. The law applies to ministries; regional, provincial, and municipal level governments; the armed forces, police, and public security forces; and public enterprises where the state owns more than 50 percent or holds a majority of appointments on the board of directors. The law created an autonomous Transparency Council to provide for the right of access to information and to rule on cases in which information is denied. During the year the Transparency Council considered 627 cases of denials for information requests. The council made decisions on 47 percent of those, while the remaining cases were under analysis. Any individual or entity may request information and appeal to the council free of charge. The new law also requires all ministries and public agencies to publish certain information on their Web sites.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. For example, the UN rapporteur on indigenous peoples in April and the Inter-American Commission on Human Rights (IACHR) rapporteur on the rights of the child visited in November. Both visits yielded reports that included criticisms of the government (see section 6, Indigenous People).

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

The law prohibits discrimination based on race, gender, age, nationality, national origin, disability, language, or social status, and the government enforced these prohibitions; however, such discrimination continued to occur.

*Women.*—Rape, including spousal rape, is a criminal offense. Penalties for rape range from five to 15 years' imprisonment, and the government generally enforced the law. Statutory rape applies to victims 14 years of age and under.

The law protects the privacy and safety of the victim making the charge. During the year the Public Prosecutor's Office investigated 5,199 cases of rape, and the courts handed down 872 rape convictions. Experts, however, believed that most rape cases went unreported.

The Ministry of Justice and the PDI operated several offices specifically dedicated to providing counseling and assistance in rape cases. A number of NGOs, such as La Morada Corporation for Women, provided counseling for rape victims.

Domestic violence against women remained a serious problem. During the year the Public Prosecutor's Office initiated investigations into 110,162 cases of family violence. From January to December, 56 women were killed as a result of domestic or sexual violence, compared with 59 in 2008.

Government actions to confront domestic violence included a national awareness campaign that began in October 2008; operation of 90 assistance centers and 25 shelters for women; and partnerships with NGOs to provide training for police officers and judicial and municipal authorities on the legal, medical, and psychological aspects of domestic violence.

Although adult prostitution is legal, bordellos are not. Several hundred women registered as prostitutes with the National Health Service. Police often detained prostitutes (usually as a result of complaints by neighborhood residents) on charges of "offenses against morality," which could lead to a fine of 50,000 pesos (approximately \$99) or five days in prison. Procurement or pandering is illegal and punishable under law.

Sexual harassment generally was recognized as a problem. The law provides protection and financial compensation to victims of sexual harassment and penalizes harassment by employers or coworkers. The Labor Directorate received 302 complaints of sexual harassment during 2008, of which 58 percent involved harassment by a hierarchal superior.

Generally, couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. Access to contraception and skilled attendance at delivery and in postpartum care were available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV/AIDS. On October 29, the Santiago Appellate Court upheld a June 16 Comptroller General resolution that in effect prohibited the distribution of emergency contraception in the public health system. Emergency contraception was legally available in the private health system.

Women enjoy most of the same legal rights as men, including rights under family law and property law. Despite the 1994 introduction of a "community property" marital arrangement, in which each spouse maintains separate control of the assets brought into the marriage, the default and most common marital arrangement is "conjugal society," which gives a husband the right to administer joint property, including his wife's property. Under a 2007 agreement with the IACHR, the government committed to modify the law to give women and men equal rights and responsibilities in marriage. Implementing legislation remained pending at year's end.

The commercial code provides that unless a woman is married under the separate estate regime, she may not enter into a commercial partnership agreement without permission from her husband; a man may enter into such an agreement without permission from his wife.

The 2007 Supplemental Survey of Incomes estimated that the overall gender income gap had decreased to 25 percent, compared with 33 percent in 2004. Among those with university education, the income gap was 33 percent, compared with 38 percent in 2004. On December 19, a new law providing for equal pay for equal work went into effect. The law requires companies with 10 or more workers to establish a formal internal complaint procedure, while those with 200 or more workers must also generate a registry detailing employee positions and functions. The labor code provides specific benefits for pregnant workers and recent mothers, including a prohibition against dismissal. The National Women's Service is charged with protecting women's legal rights.

*Children.*—Citizenship is derived by birth within the country's territory and from one's parents or grandparents.

Violence against children was a significant problem. The government's First National Survey of Victimization of Domestic Violence and Sex Crimes, conducted from 2006 to 2008, found that 72 percent of children had suffered some form of violence including psychological abuse.

The law prohibits sexual abuse of minors and suspends the statute of limitations in such cases. During the year the Public Prosecutor's Office investigated 333 cases of commercial juvenile sexual exploitation, compared with 347 in 2008. Also during the year, SENAME assisted 1,062 victims of commercial juvenile sexual exploi-

tation, compared with 1,216 in all of 2008. SENAME ran 14 programs specifically for victims of commercial sexual exploitation and 48 additional programs for children and youth in high-risk situations, including commercial sexual exploitation. SENAME also partnered with municipal governments to run 108 local branches of the Office for the Protection of Children's Rights throughout the country. SENAME, the Carabineros, and the PDI cooperated with schools and NGOs to identify children in abusive situations, provide counseling and other social services to abused children, and keep families intact.

Child prostitution was a problem. Children engaged in prostitution for survival with and without third-party involvement. The criminal code considers 18 the age for consensual sex. Sex with a girl between ages 14 and 18 may be considered statutory rape, and sex with a child under age 14 is considered rape, regardless of consent. Penalties for statutory rape range from three to 10 years in prison. Child pornography is a crime; penalties for producing child pornography range from 541 days to five years in prison.

From July to November, 11 PDI detectives and one PDI lawyer were formally charged for their involvement in a child prostitution ring in Valparaiso (see *Trafficking in Persons* below).

Child labor in the informal economy was a problem (see section 7.d.).

*Trafficking in Persons.*—The law does not specifically prohibit all forms of trafficking in persons, and there were reports that persons were trafficked to, from, through, and within the country for the purposes of sexual and labor exploitation and involuntary domestic servitude.

Most reported victims were women and minors trafficked to the country for sexual exploitation. Foreign victims were brought to the country from Peru, Argentina, Colombia, Bolivia, Paraguay, and China for commercial sexual exploitation or involuntary domestic servitude or labor. In certain cases it was difficult to distinguish some trafficking victims from economic migrants. Victims were also trafficked from the country to Argentina, Peru, and Bolivia for sexual and labor exploitation. Anecdotal reports suggested that young women were the primary targets for trafficking abroad. Children, along with their families, were trafficked from Peru and Bolivia to work in agriculture. Victims, primarily Chinese men subjected to labor exploitation, were also trafficked through the country en route to Mexico, Brazil, and possibly the United States.

Principal traffickers were small-scale criminals, although reports of trafficking by organized criminal rings increased. Traffickers reportedly used newspaper advertisements for models to lure girls and targeted economically disadvantaged families when looking for children. The majority of transnational trafficking victims reportedly held valid travel documents.

The law criminalizes cross-border trafficking for sexual exploitation, with a minimum penalty of three years in prison and fines beginning at 430,000 pesos (approximately \$847). Sanctions increase to a maximum of 20 years in a number of circumstances, including cases in which the victim is a minor, violence or intimidation is used, deception or abuse of authority is involved, the victim is related to or under the tutelage of the perpetrator, or advantage is taken of a victim's circumstances or disability. The law criminalizes the promotion of child prostitution, corruption of minors, and solicitation of sexual services from a minor in exchange for money or other considerations. Trafficking victims may remain in the country during legal proceedings against their traffickers. Victims may also bring legal action against traffickers and seek restitution. The law does not criminalize transnational trafficking for the purpose of labor exploitation and lacks specific prohibitions against some forms of internal trafficking.

In December 2008 in the country's first case ever against a pedophile and child pornography network, the Santiago Appellate Court increased the sentences against Rafael "Sakarach" Maureira and two others to life in prison for the production and distribution of child pornography, sexual abuse and rape of minors, and illicit association.

An antitrafficking coordinator in the Ministry of the Interior worked with the PDI, the Ministry of Justice, other government agencies, and NGOs to coordinate antitrafficking efforts. During the year the Public Prosecutor's Office opened 146 new trafficking cases, including 22 cases of cross-border trafficking, compared with 126 cases in 2008. Most trafficking-related cases dealt with commercial sexual exploitation of minors. During the year the courts convicted 26 persons of cross-border trafficking, compared with five such convictions in 2008. Twenty-three investigations of cross-border trafficking were active at year's end. The government cooperated with Interpol on law enforcement activities.

Investigations continued into PDI and Carabinero involvement in a child prostitution ring in Valparaiso. From July to November, authorities formally charged 11

PDI detectives and one PDI lawyer with facilitating child prostitution and obstructing an investigation. The cases remained pending at year's end.

The government made substantial efforts to assist trafficking victims. SENAME worked with local offices, international organizations, and NGOs to provide counseling, psychological and health care, and educational opportunities to child victims. SENAME also worked to ensure that child victims would not return to abusive or high-risk situations.

The government also worked with Bolivian and Argentine authorities to coordinate the safe repatriation of foreign victims. The government had no residence visa program for foreign trafficking victims.

Government programs to prevent trafficking included a PDI public awareness campaign, with cinema workshops; ongoing training of police and prosecutors in collaboration with the International Organization for Migration; and participation in the regional training of officials from immigrant services, the National Prosecutor's Office, and the PDI.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities, but such persons suffered forms of de facto discrimination. In October 2008 the New Faces Foundation, an NGO that provides attention to impoverished adults with mental or psychological disabilities, reported an estimated 60,000 persons suffered from moderate or severe mental disability, nearly half of whom received no mental health attention. Approximately 100,000 persons under the age of 27 with disabilities did not receive any special care or education.

A majority of public buildings did not comply with legal accessibility mandates. An improved transportation system in Santiago provided additional, but still limited, accessibility for persons with disabilities. Public transportation outside of the capital remained problematic.

The National Fund for Persons with Disabilities (FONADIS), under the jurisdiction of the Ministry of Planning, has responsibility for protecting the rights of persons with disabilities and for creating programs to promote their better integration into society. FONADIS supported a number of programs through its annual national projects contest.

*Indigenous People.*—The law gives indigenous people (approximately 5 percent of the total population) the right to participate in decisions affecting their lands, cultures, and traditions and provides for bilingual education in schools with indigenous populations. Approximately one-half of the self-identified indigenous population remained separated from the rest of society, largely due to historical, cultural, educational, and geographical factors. Both internal factors and governmental policies limited the participation of indigenous people in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous people also experienced some societal discrimination and reported incidents in which they were attacked and harassed. According to the 2006 Socioeconomic Characteristics Survey, the indigenous population's poverty rate dropped 10 percent since 2003, and the gap between indigenous and nonindigenous poverty narrowed by more than 5 percent. The UN rapporteur on indigenous peoples recognized this improvement in his October report but noted that severe inequality gaps between indigenous and nonindigenous peoples persisted.

The National Corporation for Indigenous Development (CONADI), which included directly elected indigenous representatives, advised and directed government programs to assist the economic development of indigenous people. During the year the Ministry of Education and CONADI provided scholarships to 43,640 indigenous elementary, high school, and college students, compared with approximately 44,000 in 2008. Indigenous groups noted, however, that the scholarships were actually small stipends to cover living expenses and did not necessarily cover tuition costs.

There were isolated instances of violent confrontations between indigenous Mapuche groups and landowners, logging companies, and police in the southern part of the country. The actions normally took the form of protests. Instances of rock throwing, land occupations, and burning crops, buildings, or vehicles occurred. Members of the Coordinadora Arauco Malleco (CAM), an indigenous group the government accused of committing domestic terrorist acts, reportedly initiated many of these actions.

From January to September, the government applied the antiterrorism law to prosecute 49 Mapuche individuals or sympathizers who committed violent acts of protest in the form of destruction of property or confrontations with police. The Working Group on the UN Human Rights Council Universal Periodic Review, the UN Committee on the Elimination of all forms of Racial Discrimination, and the UN

rapporteur on indigenous peoples all recommended that the government limit its application of the antiterrorism law in the context of Mapuche social protest.

There were reports of police abuse against Mapuche individuals and communities and harassment of NGOs associated with the promotion of indigenous rights. The military justice system investigates all cases of alleged police abuse. On August 12, police shot and killed Jaime Mendoza while he and approximately 30 other Mapuche individuals occupied private land in Ercilla. A military court indicted Carabineros Corporal Patricio Jara for “unnecessary violence resulting in death.” Jara remained free on bail with the case pending at year’s end. On August 21, a military prosecutor charged Carabineros Corporal Walter Ramirez for “unnecessary violence resulting in death” and requested he serve 10 years in prison for the January 2008 shooting of Matias Catrileo. The case remained pending at year’s end.

The Citizens’ Observatory (OC, formerly the Observatory of Indigenous People’s Rights) reported an increased incidence of police searches of Mapuche homes without a warrant, arrest and release of Mapuche individuals without a detention control hearing, and police use of intimidation and discriminatory statements against Mapuche individuals, including minors. The OC also reported that alleged police abuse of Mapuche individuals often occurred during the implementation of court-ordered arrests or search warrants.

On February 11, after the Appellate Court of Concepcion annulled a November 2008 absolution and ordered a new trial, a court absolved alleged CAM member Avelino Menaco of involvement in a 2007 arson fire. The case of one other alleged Mapuche CAM member, arrested in 2007 under charges of arms possession, was transferred to the military justice system and was pending at year’s end.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws criminalizing sexual orientation. There are active organizations for gay men, lesbians, bisexuals, transvestites, and transgender persons, which operated free of impediments. On June 27, 10,000 persons participated in the ninth annual gay pride march in Santiago without violence or other incidents. There were also marches in Calama, La Serena, Puerto Montt, and Lota. According to the Seventh Annual Report on the Human Rights of Sexual Minorities of the Movement for Homosexual Integration and Liberation (MOVILH), there were 65 cases of discrimination due to sexual orientation in 2008, compared with 57 cases (including four killings) in 2007. The MOVILH cited a decrease in reports of violent attacks against gay men, lesbians, bisexuals, transvestites, and transgender individuals but noted an increase in intrafamilial discrimination by parents who threatened or expelled children from their homes.

On May 28, a homosexual couple of former Carabineros sued the state for 50 million pesos each (approximately \$98,500), alleging that their superiors threatened to make public their sexual orientations if they did not resign. The case remained pending at year’s end.

*Other Societal Violence or Discrimination.*—There were no confirmed cases of societal violence or discrimination based on persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—Workers have the right to form and join unions without prior authorization, and approximately 13 percent of the total workforce (estimated at 7.2 million) was unionized in more than 20,000 registered unions. The law allows unions to conduct their activities without interference, and the government protected this right in practice. Police and military personnel may not organize collectively.

Public employees do not enjoy the right to strike. However, on October 13, an estimated 80,000 public school teachers began a three-week strike to pressure the government to deliver back pay.

While employees in the private sector have the right to strike, the government regulated this right, and there were some restrictions. Employers must show cause and pay severance benefits if they dismiss striking workers. The law proscribes employees of 32 private sector companies, largely providers of services such as water and electricity, from striking. It stipulates compulsory arbitration to resolve disputes in these companies. Strikes by agricultural workers during the harvest season are prohibited.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law, but the right of entertainers and temporary agricultural, construction, and port workers to bargain collectively is limited. Intercompany unions were permitted to bargain collectively only if the individual employers agreed to negotiate under such terms. Collective bargaining in the agricultural sector remained dependent on employers agreeing to negotiate.

The 2009 International Trade Union Confederation's Annual Survey of Violations of Trade Union Rights reported that 20 companies were found guilty of antiunion practices in the first half of 2008.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, such practices occurred, primarily for domestic servitude and forced prostitution. The labor code does not specifically prohibit forced or compulsory labor by children, and child prostitution remained a problem.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Despite laws restricting child labor, the employment of children was a problem in the informal economy and in agriculture. Children worked in the production of ceramics and books and in the repair of shoes and garments. Children in urban areas worked as baggers in supermarkets and waited tables in restaurants. They sold goods on the street, worked as domestic servants, and assisted in construction activities. Children in rural areas were involved in caring for farm animals, as well as harvesting, collecting, and selling crops, such as wheat, potatoes, oats, and quinoa. Children also worked in fishing and forestry. Children were also used in drug production and sales and transported drugs in the border area with Peru and Bolivia.

The law provides that children between the ages of 15 and 18 may work with the express permission of their parents or guardians, but they must attend school. They may perform only light work that does not require hard physical labor or constitute a threat to health and childhood development. When attending school, children may not work more than 30 hours a week and in no case more than eight hours a day or between the hours of 10 p.m. and 7 a.m. Their work contracts must be registered by their employers at the local Ministry of Labor inspector's office.

From January to December, there were 289 detected cases of children and adolescents involved in the worst forms of child labor, compared with 268 cases in 2008; 56 percent of these cases involved girls. Most reported child and adolescent labor cases involved children over the age of 15 and children not enrolled in school. Examples included hazardous work in mines, commercial sexual exploitation, and illegal activities.

Ministry of Labor inspectors enforced regulations, and while compliance was good in the formal economy, many children were employed in the informal economy. From January to October, the Ministry of Labor imposed some form of sanction in 47 cases involving violations of child labor laws, compared with 111 cases in all of 2008.

The government devoted considerable resources and oversight to child labor policies. SENAME, in coordination with labor inspectors, identified and assisted children in abusive or dangerous situations. SENAME also implemented public education programs to raise awareness and worked with the International Labor Organization to operate rehabilitation programs. The Ministry of Labor convened regular meetings of a business-labor-government group to monitor progress in eradicating child labor.

*e. Acceptable Conditions of Work.*—The minimum wage is set by law and is subject to adjustment annually. A committee composed of government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. On July 1, the minimum wage increased 3.8 percent to 165,000 pesos (approximately \$288) a month. This wage was designed to serve as the starting wage for an unskilled single adult worker entering the labor force and did not provide a worker and family with a decent standard of living. The minimum wage for domestic servants was 83 percent of that for other occupations. The minimum wage for workers over age 65 and under 18 was 123,176 pesos (approximately \$215) a month. The Labor Directorate, under the Ministry of Labor, was responsible for enforcing minimum wage and other labor laws and regulations, and it did so effectively.

The law sets the legal workweek at six days or 45 hours. The maximum workday length is 10 hours (including two hours of overtime pay), but positions such as caretakers and domestic servants are exempt. The law mandates at least one 24-hour rest period during the workweek, except for workers at high altitudes, who may exchange a work-free day each week for several consecutive work-free days every two weeks. The law establishes fines for employers who compel workers to work in excess of 10 hours a day or do not provide adequate rest days. The government effectively enforced these standards.

The law establishes occupational safety and health standards, which were administered by the Ministries of Health and Labor and effectively enforced. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. The law protects employment of workers who remove

themselves from dangerous situations if labor inspectors from the Labor Directorate and occupational safety and health inspectors from the country's Safety Association determine conditions that endanger their health or safety exist. Authorities effectively enforced the standards and frequently imposed fines for workplace violations.

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## COLOMBIA

Colombia is a constitutional, multiparty democracy with a population of approximately 45 million. In May 2006 independent presidential candidate Alvaro Uribe was reelected in elections that were considered generally free and fair. The 45-year internal armed conflict continued between the government and terrorist organizations, particularly the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN). While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted in violation of state policy.

Although significant human rights abuses remained, the government continued to make efforts to confront and address these abuses. The following societal problems and governmental human rights abuses were reported during the year: unlawful and extrajudicial killings; insubordinate military collaboration with new illegal armed groups and paramilitary members who refused to demobilize; forced disappearances; overcrowded and insecure prisons; torture and mistreatment of detainees; arbitrary arrest; a high number of pretrial detainees, some of whom were held with convicted prisoners; impunity and an inefficient judiciary subject to intimidation; illegal surveillance of civilian groups, political opponents, and government agencies; harassment and intimidation of journalists; unhygienic conditions at settlements for displaced persons, with limited access to health care, education, or employment; corruption; harassment of human rights groups and activists, including unfounded prosecutions; violence against women, including rape; child abuse and child prostitution; trafficking in women and children for the purpose of sexual exploitation; some societal discrimination against women, indigenous persons, and minorities; and illegal child labor.

The FARC and ELN committed the following human rights abuses: political killings; widespread use of landmines; killings of off-duty members of the public security forces and local officials; kidnappings and forced disappearances; massive forced displacements; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; widespread recruitment of child soldiers; attacks against human rights activists; violence against women, including rape and forced abortions; and harassment, intimidation, and killings of teachers and trade unionists.

New illegal armed groups and paramilitary members who refused to demobilize also committed numerous human rights abuses. The last United Self Defense Forces of Colombia (AUC) block demobilized in 2006, but AUC members who refused to demobilize, AUC members who demobilized but later abandoned the peace process, and other new illegal armed groups remained targets of security force action. These new groups lacked the organization, reach, and military capacity of the former AUC and focused primarily on narcotics trafficking and extortion. The AUC demobilization led to a reduction in killings and other human rights abuses, but paramilitary members who refused to demobilize and new illegal armed groups continued to commit numerous unlawful acts and related abuses, including the following: political killings and kidnappings; physical violence; forced displacement; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; recruitment and use of child soldiers; violence against women, including rape; and harassment, intimidation, and killings of human rights workers, journalists, teachers, and trade unionists.

Government statistics indicated that during the year kidnappings decreased 18 percent and mass killings decreased 13 percent compared with the same period in 2008. The Prosecutor General's Human Rights Unit achieved convictions of 421 defendants for human rights crimes, including 157 military personnel for extrajudicial executions, during the year. Through December the Justice and Peace Law (JPL) process, wherein former paramilitary leaders confess their crimes and surrender assets in exchange for reduced sentences, helped clarify more than 38,000 crimes involving 50,000 victims and led to the exhumation of 2,800 remains in 2,300 common graves, while the Supreme Court and prosecutor general's investigations of links between politicians and paramilitary groups implicated 87 members of Congress, 15 governors, and 35 mayors, 66 of whom were detained at year's end. In total, 18 poli-



ticians (13 members of Congress, four governors, and one mayor) had been convicted for ties to paramilitary groups at year's end.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Political and unlawful killings remained an extremely serious problem, and there were periodic reports that members of the security forces committed extrajudicial killings during the internal armed conflict (see section 1.g.). Unlike in the preceding year, there were significantly fewer reports of military officials presenting murdered civilians as killed in combat.

The UN special rapporteur on extrajudicial killings, Philip Alston, reported extrajudicial killings of civilians presented as combat kills in the departments of Antioquia, Arauca, Valle del Cauca, Casanare, Cesar, Cordoba, Huila, Meta, Norte de Santander, Putumayo, Santander, Sucre, and Vichada. While the special rapporteur noted there was no evidence to suggest these killings were carried out as a matter of official government policy, the number of cases, their geographic spread, and the diversity of military units implicated, indicated that these killings were carried out in a systemic fashion by significant elements within the military.

Guerrillas, notably the FARC and ELN, committed unlawful killings (see section 1.g.).

Paramilitary members who refused to demobilize and new illegal armed group members committed numerous political and unlawful killings, primarily in areas under dispute with guerrillas or without a strong government presence (see section 1.g.).

The Jesuit-founded Center for Popular Research and Education (CINEP), a local human rights nongovernmental organization (NGO), reported there were at least 192 political and unlawful killings, committed by all actors, during the first six months of the year, 28 fewer than those reported in the same period in 2008. Some NGOs, such as CINEP, considered the new illegal groups to be a continuation of the paramilitary groups and attributed reports of human rights violations committed by these groups directly to the government. Those NGOs also included killings by these groups in their definition of "unlawful killings."

The Presidential Program for Human Rights reported that through November 30, illegal armed groups killed 133 persons in 26 massacres (defined by the government as killings of four or more persons), an 8 percent reduction in the number of massacre victims from the same period in 2008 (see section 1.g.).

Some members of government security forces, including enlisted personnel, non-commissioned officers, and senior officials, in violation of orders from the president and the military high command, collaborated with or tolerated the activities of new illegal groups or paramilitary members who refused to demobilize. Such collaboration often facilitated unlawful killings and may have involved direct participation in atrocities.

In certain areas, such as Medellin, Antioquia; Tierralta, Cordoba; Buenaventura, Valle del Cauca; the Uraba region of Antioquia and Choco; and Meta, corrupt dealings reportedly continued between local military and police forces and new illegal groups or paramilitary members who refused to demobilize. Although impunity for these military personnel remained a problem, the Ministry of Defense carried out investigations and handed over culpable parties to civilian authorities in a number of high-profile cases during the year. In several cases of extrajudicial executions falsely reported as combat deaths, former paramilitary members were associated with the crimes (see section 1.g.). In July the Prosecutor General's Office accused 11 members of the police of collaborating with the illegal group Oficina de Envigado. In October four police from the Carepa, Antioquia, station were charged with sharing police and military operations information with Daniel Rendon Herrera's (alias Don Mario) criminal group.

In conformity with the law, military or civilian authorities investigated killings committed by security forces. Investigations of past killings proceeded, albeit slowly. Some high-profile cases against military personnel resulted in convictions or were reopened in large part due to testimony in the Justice and Peace process. On June 3, the Third Penal Circuit Court of Monteria, Cordoba, sentenced two officers and four professional soldiers to 28 years in prison for the 2006 homicides of two young men presented as killed in combat. In June the Prosecutor General's Office reopened the 1989 case of the Rochela massacre, in which paramilitary forces, working in collaboration with elements of the military, killed 12 judicial officials investigating the forced disappearances of 19 merchants.

Nongovernmental actors used landmines; the armed forces stopped planting new landmines after the government signed the Mine Ban Treaty in December 1997. Preliminary reports indicated that landmines, used primarily by the FARC and ELN, caused 94 deaths and 450 injuries during the first 11 months of the year (see section 1.g.), a 27 percent decrease in landmine incidents from the same period in 2008.

*b. Disappearance.*—Forced disappearances, many of them politically motivated, continued to occur. CINEP reported 18 victims of forced disappearance by unknown actors during the first six months of the year, compared with 27 victims in the same period in 2008. The Prosecutor General's Office charged members of the armed forces in nine cases of forced disappearance during the year, although the alleged crimes did not all occur in 2009. According to the Presidential Program and the Disappeared Persons registry (SIRDEC), coordinated by the National Institute of Legal Medicine and Forensic Science, 348 persons were reported as forcibly disappeared during the year, a reduction of 19 percent from 2008. In August the government presented a new interagency plan to improve efforts to identify remains of victims of forced disappearances.

Although kidnapping, both for ransom and for political reasons, continued to diminish, it remained a serious problem. The government's National Fund for the Defense of Personal Liberty (Fondelibertad) reported 160 kidnappings for extortion during the year, a decrease of 18 percent from 2008. After reviewing 3,300 kidnapping cases since 1996, Fondelibertad revised its current estimate of the number of victims currently kidnapped down to 125 (66 held by the FARC, 10 by the ELN, and the rest by new illegal groups or paramilitary members who refused to demobilize). Some human rights groups questioned the figure, arguing that the true number ranged from 600 to several thousand.

GAULAs (Unified Action Groups for Personal Liberty, military and police entities formed to combat kidnapping and extortion) and other elements of the security forces freed 64 hostages during the year; Fondelibertad reported that at least five kidnapping victims died in captivity, compared with 13 in 2008, a 62 percent reduction. The FARC and ELN, as well as new illegal groups and paramilitary members who refused to demobilize, continued the practice of kidnapping. All illegal groups, including guerrillas, sometimes killed kidnapping victims (see section 1.g.). The FARC voluntarily released 15 individuals through November 30.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, there were reports that the police, military, and prison guards sometimes mistreated and tortured detainees. Members of the military and police accused of torture were tried in civilian rather than military courts. CINEP asserted that during the first six months of the year, government security forces were involved in 16 incidents of torture, a 78 percent decrease compared with the first six months of 2008. The Prosecutor General's Office charged four members of the armed forces with torture during the year.

CINEP reported, for example, that:

On January 1, in Caloto, Cauca, troops assigned to the Eighth Infantry Battalion "Battle of Pichincha" allegedly arbitrarily detained and tortured Gerardo Barona Avirama and James Barona Avirama.

On February 28, in Paya, Boyaca, members of the army allegedly tortured 16-year-old Neftali Blanco to force him to confess to being a guerrilla.

On March 10, in Argelia, Cauca, the National Police allegedly arbitrarily detained, tortured, and threatened Oscar Gomez Zapata, a member of ASCAMTA, an NGO that focuses on agrarian rights issues.

CINEP reported that demobilized paramilitary members were responsible for at least 24 cases of torture as of June, compared with 19 in the same period of 2008.

Cases of military hazing were reported. On April 13, an army captain was arrested for torture committed in October 2006. On August 26, the Special Circuit Court of Ibague sentenced 13 soldiers to between 15 and 16 years in prison for their involvement in torturing 37 lower-ranked soldiers at the Piedras military base in Tolima in January 2006.

*Prison and Detention Center Conditions.*—With the exception of new facilities, prison conditions were poor, particularly for prisoners without significant outside support. The National Prison Institute (INPEC) runs the country's 139 national prisons and is responsible for inspecting municipal jails.

Overcrowding, lack of security, corruption, and an insufficient budget remained serious problems in the prison system. As of year's end, more than 77,000 prisoners were held in facilities designed to hold fewer than 55,000; overcrowding rates exceeded 34 percent. Many of INPEC's 5,746 prison guards were poorly trained. The NGO Committee in Solidarity with Political Prisoners noted that improved training,

increased supervision, and more accountability for prison guards had helped but expressed fear that greater privatization of the prisons system may lead to further corruption.

Constrained budgets adversely affected prison conditions. INPEC spent 5,300 pesos (\$2.65) per day on each inmate for food. Private sources continued to supplement food rations of many prisoners.

INPEC reported that there were 27 violent deaths among inmates related to fighting and riots during the year. Through November, 22 riots occurred at various penal institutions. The Prosecutor General's Office continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally. According to INPEC, three prison guards were convicted of extortion and conspiracy during the year.

The law prohibits holding pretrial detainees with convicted prisoners, although some cases were reported. Minors were not held with adults; however, minor children of female prisoners were able to stay with their mothers in some cases.

The government permitted independent monitoring of prison conditions by local and international human rights groups, and such monitoring occurred during the year. The FARC and ELN continued to deny the International Committee of the Red Cross (ICRC) access to police and military hostages.

*d. Arbitrary Arrest or Detention.*—Although the law prohibits arbitrary arrest and detention, there were allegations that authorities detained citizens arbitrarily.

*Role of the Police and Security Apparatus.*—The National Police are responsible for internal law enforcement and are under the jurisdiction of the Ministry of Defense. Law enforcement duties are shared with the Administrative Department of Security (DAS) and the Prosecutor General's Corps of Technical Investigators (CTI). The army also shared limited responsibility for law enforcement and maintenance of order within the country. For example, military units sometimes provided logistical support and security for criminal investigators to collect evidence in high-conflict or hard-to-reach areas. During the year the Prosecutor General's Human Rights Unit issued 518 arrest orders for armed forces personnel involved in extrajudicial killings, the majority of which took place prior to 2009. However, claims of impunity continued to be widespread, due in some cases to obstruction of justice, a lack of resources for investigations and protection for witnesses and investigators, and inadequate coordination among government entities. Many human rights groups criticized the Prosecutor General's Office for indicting low-ranking military personnel only while avoiding investigations of high-ranking intellectual authors. During the year the Ministry of Defense relieved from duty 55 officers and 41 noncommissioned officers and soldiers of the armed forces for inefficiency, unethical conduct, corruption, and suspected involvement in human rights violations.

*Arrest Procedures and Treatment While in Detention.*—Police apprehended suspects with warrants issued by prosecutors based on probable cause. However, a warrant is not required to arrest criminals caught in the act or fleeing the scene of a crime. Members of the armed forces detained members of illegal armed groups captured in combat but were not authorized to execute arrest warrants; however, members of the CTI, who accompanied military units, could issue such warrants.

Under the accusatorial system that took effect nationwide in January 2008, persons detained must be brought before a judge within 36 hours to determine the validity of the detention. Formal charges must then be brought within 30 days, and a trial must start within 90 days of the initial detention. Crimes committed before implementation of the new code, however, must be tried under the previous, inquisitorial system.

The previous system required law enforcement authorities to inform suspects promptly of the reasons for an arrest and bring suspects before a senior prosecutor within 36 hours of detention. Prosecutors had to rule on the legality of detentions within 72 hours. Under both the new and previous systems, in most felony cases, detention prior to the filing of formal charges cannot exceed 180 days, after which a suspect must be released. Under the old system, in cases of crimes deemed particularly serious, such as homicide, terrorism, or rebellion, authorities were allowed up to 360 days to file formal charges before a suspect had to be released. Habeas corpus is available to address cases of alleged arbitrary detention.

Bail is not available for serious crimes such as murder, rebellion, or narcotics trafficking. Detainees have the right to prompt access to counsel of their choice, and nearly 1,600 public defenders from the Office of the Human Rights Ombudsman assisted indigent defendants.

Prominent human rights NGOs complained that the government arbitrarily detained hundreds of persons, particularly social leaders, labor activists, and human rights defenders. CINEP reported that security forces arbitrarily detained 113 per-

sons during the first six months of the year, compared with 224 in the same period of 2008. Many of these detentions took place in high-conflict areas (notably in the departments of Santander, Antioquia, Arauca, and Narino), where the military was involved in active hostilities against insurgents.

The government and prominent local NGOs frequently disagreed on what constituted “arbitrary detention.” While the government characterized detentions based on compliance with legal formalities, NGOs applied other criteria in defining “arbitrary detention,” such as arrests based on tips from informants about persons linked to guerrilla activities, detentions by members of the security forces without a judicial order, detentions based on administrative authority, detentions during military operations, large-scale detentions, and detentions of persons while they were “exercising their fundamental rights.”

Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees difficult. Trial delays were caused by large numbers of detainees, financial constraints, and staff shortages.

*e. Denial of Fair Public Trial.*—While the law provides for an independent judiciary, much of the judicial system was overburdened, inefficient, and hindered by subornation and intimidation of judges, prosecutors, and witnesses. In these circumstances impunity remained a serious problem, although the government took action to address these issues. The Superior Judicial Council (CSJ) reported that the civilian judicial system suffered from a significant backlog of cases, which led to large numbers of pretrial detainees. Implementation of the new criminal accusatory system reduced the time for resolving new criminal cases by over 75 percent, with conviction rates of approximately 60 percent under the new system, compared with 3 percent under the old, inquisitorial system. However, a large backlog of old-system cases remained.

Judicial authorities were subjected to threats and acts of violence. According to the protection program in the Prosecutor General’s Office, during the year 470 judicial employees sought varying forms of protection from the CSJ for reasons including threats. Although the Prosecutor General’s Office ran a witness protection program for witnesses in criminal cases, witnesses who did not enter the program remained vulnerable to intimidation, and many refused to testify.

The UN special rapporteur on the independence of judges and lawyers, Gabriela Carina Knaul de Albuquerque e Silva, reported on a high level of threats and attacks against judicial officials such as judges, defense lawyers, prosecutors, and investigators as well as civilian participants in the justice system such as witnesses and victims. The special rapporteur acknowledged the government had programs in place to provide protection but called for increased measures to ensure the protection of justice officials. The special rapporteur noted that threats against judicial personnel contributed to the high rate of impunity, along with insufficient resources for the administration of justice and inadequate initial investigations.

The civilian justice system is composed of four functional jurisdictions: ordinary, administrative, constitutional, and special. The ordinary jurisdiction is the largest and handles all criminal, civil, labor, agrarian, and domestic cases involving non-military personnel. The Supreme Court is the highest court within the civil jurisdiction and serves as its final court of appeal.

The Constitutional Court is the sole judicial authority on the constitutionality of laws, presidential decrees, and constitutional reforms. The court also may issue advisory opinions on the constitutionality of bills not yet signed into law and acts within its discretion to review the decisions of lower courts on “tutelas,” or writs of protection of fundamental rights, which can be filed before any judge of any court at any stage of the judicial process, by any citizen.

The special jurisdiction of the civilian justice system consists of the justices of the peace program and the indigenous jurisdiction. The CSJ is responsible for the administration and discipline of the civilian justice system.

The Supreme Court, the Council of State, the Constitutional Court, and the CSJ are coequal supreme judicial bodies that sometimes issued conflicting rulings and frequently disagreed about jurisdictional responsibilities.

The military justice system consists of 44 military courts and the Supreme Military Tribunal, which serves as the court of appeals for all cases tried in military courts. The Supreme Court serves as a second court of appeal for military cases with prison sentences of six or more years.

The military justice system may investigate and prosecute active duty military and police personnel for crimes “related to acts of military service.” The military penal code specifically defines torture, genocide, massacre, and forced disappearance as crimes unrelated to military service. All human rights violations are considered unrelated to military service and must be handled by the civilian justice system, al-

though this did not always happen in practice. More than 250 human rights cases were transferred during the year from the military to the civilian justice system. The military penal code specifically excludes civilians from military jurisdiction, and civilian courts must try retired military and police personnel, although military courts are responsible for service-related acts committed prior to their retirement.

The military penal code denies commanders the power to impose military justice discipline on their subordinates and extends legal protection to service members who refuse to obey orders to commit human rights abuses. The army has discretionary authority to dismiss personnel who may be implicated in human rights abuses.

The Prosecutor General's Office is responsible for investigations and prosecutions of criminal offenses. Its Human Rights Unit, which includes 13 satellite offices, specializes in investigating human rights crimes. As of December the unit's 100 specialized prosecutors were handling a total of 5,586 active cases.

The Inspector General's Office investigates allegations of misconduct by public employees, including members of the state security forces. The Inspector General's Office referred all cases of human rights violations it received to the Prosecutor General's Human Rights Unit.

During the year the Office of the Inspector General opened disciplinary processes against 546 members of the armed forces for human rights offenses. In addition the Prosecutor General's Office achieved convictions of 157 military personnel during the year.

*Trial Procedures.*—Under the new, accusatorial criminal procedure code, which was fully implemented in January 2008, the prosecutor presents an accusation and evidence before an impartial judge at an oral, public trial. The defendant is presumed innocent and has the right to confront the evidence against him at trial and to present his own evidence. No juries are involved. Crimes committed before implementation of the new code were processed under the prior written inquisitorial system in which the prosecutor is an investigating magistrate who investigates, determines evidence, and makes a finding of guilt or innocence. The "trial" was actually the presentation of evidence and finding of guilt to a judge for his/her ratification or rejection.

In the military justice system, military judges preside over courts-martial without juries. Counsel may represent the accused and call witnesses, but the majority of fact-finding takes place during the investigative stage. Military trial judges issue rulings within eight days of a court-martial hearing. Representatives of the civilian Inspector General's Office are required to be present at courts-martial.

Criminal procedure within the military justice system includes elements of the inquisitorial and accusatorial systems. Defendants are considered innocent until proven guilty and have the right to timely consultation with counsel. A Constitutional Court ruling forbids military attorneys from undertaking defense counsel duties. Defendants must retain counsel at their own expense or rely on defenders paid by a private fund.

At year's end the Ministry of Defense was prepared to launch its transition to the oral accusatory system used by the civilian judiciary. The roll-out of the new system will take place regionally and is scheduled to be completed in 2012. The military justice system transferred more than 250 human rights cases from military justice to civilian systems during the year.

Civilian courts convicted military members for past human rights violations; for instance:

September 1, the Third Criminal Circuit Court of Ibague convicted five soldiers of murder and sentenced them to 35 to 40 years of prison for the 2004 homicides of a family of five, including a minor child and an infant, in Potosi de Cajamarca, Tolima.

September 24, the Twelfth Circuit trial judge of Bogota convicted two pilots of murder for their involvement in the 1998 bombing of the village of Santo Domingo, Arauca, which left 17 persons dead. A 2007 conviction of manslaughter was overturned because the higher court said the pilots' actions violated international humanitarian law prohibiting the use of bombs in populated areas, even if enemy fighters are present.

November 25, the Superior Tribunal of Bogota sentenced retired general Jaime Humberto Uscategui to 40 years in prison for his involvement in the 1997 paramilitary massacre in Mapiripan, Meta, in which an estimated 50 persons were killed.

*Political Prisoners and Detainees.*—The government stated that it did not hold political prisoners. Some human rights advocacy groups characterized as political detainees some detainees held on charges of rebellion or terrorism in what the groups

reported were harassment tactics by the government against human rights advocates (see section 5). According to INPEC, there were 3,698 detainees accused of rebellion or aiding and abetting insurgency in the year. The government provided the ICRC access to these prisoners.

*Civil Judicial Procedures and Remedies.*—Citizens can sue a state agent or body in the Administrative Court of Litigation for damages for a human rights violation. Although critics complained of delays in the process, the court generally was considered impartial and effective.

*Property Restitution.*—For many small landowners, formal land titling remained inaccessible. Government agencies and human rights groups estimated that illegal groups, including guerrillas, seized between 1.1 and 2.7 million acres of land from small landowners during the decades-long conflict. Paramilitary groups stole the majority, only a fraction of which was reclaimed by the government after the demobilization of the AUC. On June 18, the Congress voted down a victims' law that, *inter alia*, would have addressed land reform and land restitution, with some opponents charging the law did not go far enough, and others saying the government could not afford its cost.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; while the government generally respected these prohibitions in practice, there were notable exceptions by some intelligence agencies. The law requires government authorities to obtain a warrant signed by a senior prosecutor to enter a private home without the owner's consent unless the suspect has been caught in hot pursuit, and government authorities generally adhered to these regulations.

Government authorities generally need a judicial order to intercept mail or monitor telephone conversations, even in prisons. However, government intelligence agencies investigating terrorist organizations sometimes monitored telephone conversations without judicial authorization, although evidence obtained in such a manner could not be used in court.

Surveillance by the DAS of high court magistrates, journalists, human rights organizations and activists, opposition leaders, and the Vice Presidency prompted an investigation by the CTI. Press reports indicated DAS surveillance included physical monitoring of individuals and their families, phone and e-mail intercepts, and collection of personal and financial data. A CTI report described a twofold strategy to mount prosecutions against the victims of the surveillance and to disrupt human rights groups' activities through "offensive intelligence." According to a publication released by the National and International Campaign for the Right to Defend Human Rights, examples of DAS harassment included operations involving diverse attacks, setups, and death threats. Former DAS director Jorge Noguera and deputy director Jose Narvaez were under investigation for colluding with paramilitary members to instigate the murders of three unionists, a college professor, and a journalist. The Prosecutor General's Office launched a separate investigation into the wiretapping scandal, and 34 DAS employees were under investigation, 10 of whom, including four directors, were detained. Investigations into the surveillance continued at year's end.

The government continued to use voluntary civilian informants to report terrorist activities and identify terrorists. Some national and international human rights groups criticized this practice as subject to abuse and a threat to privacy and other civil liberties. In the August report of the UN secretary-general on children and armed conflict, the UN called on the government to ensure children were not used for military intelligence purposes, noting this practice puts children at risk of retaliation by illegal armed groups. The FARC publicly justified its February 4 massacre of eight Awa indigenous persons as retaliation for collaboration with the military.

New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas routinely interfered with the right to privacy. These groups forcibly entered private homes, monitored private communications, and engaged in forced displacement and conscription. The standing orders of the FARC, which had large numbers of female combatants, prohibited pregnancies among its troops, and there were numerous credible reports of compulsory abortions to enforce the order.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—The country's 45-year-long internal armed conflict, involving government forces, two terrorist guerrilla groups (FARC and ELN), and new illegal groups and paramilitary members who refused to demobilize, continued. The conflict and narcotics trafficking, which both fueled and prospered from the conflict, were the central causes of multiple violations of human rights.

After the conclusion of a process in which approximately 34,000 paramilitary personnel demobilized between 2003 and 2006, the government confronted militarily

any groups that did not demobilize, as well as new illegal groups. The Organization of American States (OAS) continued to verify all stages of demobilization and re-incorporation of former combatants into society. In its October report, the OAS noted significant advances in the process, citing an increase in victims' participation, while also pointing to areas for improvement, such as the need to confront new illegal groups. The OAS noted that of the 959 members of new illegal groups captured through June, 181 (19 percent) were formerly demobilized paramilitary members who had returned to criminal life.

*Killings.*—Security forces were responsible for alleged unlawful killings. CINEP reported that there were 45 such killings during the first six months of the year, compared with 76 in the same period of 2008. Of those unlawful killings, CINEP reported two were cases of civilians murdered by the military and falsely reported as killed in combat. As of November the Human Rights Unit in the Prosecutor General's Office was assigned 1,302 cases, involving 2,177 victims (1,949 men, 112 women, and 116 minors), of extrajudicial killings by the armed forces that occurred between 1985 and 2009. The majority of the killings under investigation occurred in the departments of Antioquia (378), Meta (116), Norte de Santander (76), and Casanare (52). A large number of the reported cases involved army members. The Prosecutor General's Office achieved a number of convictions of members of the armed forces for extrajudicial killings during the year; complete information was unavailable on those convicted during the year. At year's end the Prosecutor General's Office was investigating 12 colonels, 14 lieutenant colonels, 43 majors, and 89 captains and hundreds of lower ranked military personnel.

According to CINEP, the UN High Commissioner for Human Rights (UNHCHR), and the Presidential Program for Human Rights, reports of extrajudicial killings falsely reported as killed in combat fell significantly during the year. CINEP reported two cases involving four victims through June. The Prosecutor General's Human Rights Unit opened five new cases of extrajudicial killings alleged to have occurred during the year. The cases reported by CINEP, included:

January 16, members of the armed forces allegedly executed Jose Maria Hoyos, Islena Garcia Valencia, and Noe Pena Navarro in Salento, Quindio, and reported them as killed in combat.

March 14, members of the armed forces allegedly executed Arbey Diaz, the president of a local peasant organization, in Marcarena, Meta, and presented him as killed in combat.

The National Indigenous Organization Colombia (ONIC) reported the following case:

May 23, in Barbacoas, Narino, members of the armed forces allegedly executed Gonzalo Rodriguez Guanga, a member of the Awa indigenous group, and presented him as killed in combat. His wife, Tulia Garcia Guanga, the sole witness to the event, was subsequently killed in the August 26 massacre of 12 Awa.

According to CINEP, cases of extrajudicial killings attributed to the government also included "social cleansing" (including vagrants, gay men, lesbians (see section 6), and other "undesirables"). Examples of extrajudicial executions by security forces reported by CINEP included:

March 6, three members of the armed forces allegedly executed Alvaro Miguel Rivera, a lesbian, gay, bisexual, and transgender (LGBT) activist, in Cali, Valle del Cauca.

May 24, members of the National Police and a new illegal group allegedly executed 30-year-old Reinaldo Delgado Londono in Guadalajara de Buga, Valle del Cauca.

In a "social cleansing" case, the NGO Colombian Commission of Jurists (CCJ) reported that on January 9, police officers allegedly tortured and killed Robinson de Jesus Gil, a homeless man in Bogota. On February 10, the Prosecutor General's Office charged two police officers for the crime.

There were developments in some continuing human rights cases. Cases involving killings in 2008 included:

The Prosecutor General's Office implicated 40 members of the military in the case of the approximately 14 Soacha residents who were lured to Ocana by civilian recruiters and later killed by members of the military, who then falsely reported the victims as killed in combat. Trials had not begun at year's end.

The Prosecutor General's Office ordered the preventive detention of 15 members of the antiguerrilla unit of the 14th Brigade's Calibio Battalion in Cimitarra, Santander, for two January 2008 murders of civilians who were falsely presented as killed in combat.

Cases involving killings that took place before 2008 included:

The Prosecutor General's Office charged two professional soldiers in the case of 10 young men from Toluviejo, Sucre, who were killed by the military between July

and August 2007 and falsely reported as killed in combat. Former AUC member Jose Dionisio Ramos Castillo, alias Joselito Carnaval, was sentenced to 22 years for recruiting the victims and turning them over to the military.

On March 16, the Circuit Penal Court of Apartado (Antioquia) sentenced seven soldiers from the 17th Brigade to 30 years in prison for their involvement in the 2006 murder of Edilberto Vasquez Cardona, a member of the San Jose de Apartado Peace Community who was falsely presented as killed in combat.

On May 10, Jose Wilson Giraldo, witness in the 2006 extrajudicial killing case of his brother Jose Orlando Giraldo, was shot in the head; he survived the attack. Another witness in the case, Orlando Giraldo's daughter Martha Giraldo, received numerous threats during the year. The trial of former sergeant Luis Eduardo Mahecha Hernandez of the Third Brigade's High Mountain Battalion for the 2006 killing continued at year's end. Trials had not begun for several other military personnel implicated in the case.

In the 2005 case of eight civilians killed in San Jose de Apartado, Antioquia, the Prosecutor General's Office charged 10 soldiers from the 47th Infantry Battalion of the 17th Brigade with homicide. The government captured suspect Yamid de Jesus Gonzalez Galaraga for his involvement in the killings. The Prosecutor General's Office opened an investigation into retired army general Hector Fandino for his alleged involvement in the crime.

On October 5, the Fourth Administrative Circuit Court of Sincelejo ordered the government to pay 2.5 billion pesos (\$1.25 million) to the families of the victims of the 2001 Chengue massacre by the AUC.

The government initiated reforms to improve the human rights performance of the security forces. The reforms included opening a new human rights school in May, establishing a new human rights department under the command of a brigadier general, creating "operational legal advisors" who provide legal advice on planning, follow-up, and control of military operations, and developing new rules of engagement. The government held six televised accountability hearings to receive complaints against military members, hosted by the Presidency, with participation by the Prosecutor General's Office, the Inspector General's Office, and the Office of the Human Rights Ombudsman.

New illegal groups and paramilitary members who refused to demobilize killed journalists, local politicians, human rights activists, indigenous leaders, labor leaders, and others who threatened to interfere with their criminal activities, showed leftist sympathies, or were suspected of collaboration with the FARC. They also reportedly committed massacres or "social cleansing" killings of prostitutes, gay men and lesbians, drug users, vagrants, and gang members in city neighborhoods they controlled. New illegal groups and paramilitary members who refused to demobilize, according to CINEP, were responsible for the deaths of 279 civilians from January through June, an 89 percent increase from the 148 deaths reported during the same period in 2008. On February 26, an illegal armed group allegedly killed a transgender sex worker in Dabeiba (Antioquia). Members of the group were reported to have bragged that they killed a gay drug user.

Guerrilla group members continued to demobilize. According to the Ministry of Defense, during the year 2,481 members of guerrilla groups demobilized, compared with an estimated 3,240 demobilized over the same period in 2008, a 23 percent reduction in demobilizations. In August, 22 Embera indigenous persons demobilized collectively from the FARC's 34th Front and rejoined indigenous reserves in the Uraba region of Antioquia. Also in August, 24 Nasa indigenous persons demobilized from the FARC's Sixth Front.

FARC and ELN guerrillas killed journalists, religious leaders, candidates for public office, local elected officials and politicians, alleged paramilitary collaborators, and members of government security forces. On December 22, the FARC kidnapped and killed the governor of Caqueta. In many areas of the country, the 8,000- to 9,000-member FARC and the 2,000-member ELN worked together to attack government forces or demobilized paramilitary members; in other areas, especially in Arauca, Valle del Cauca, Cauca, and Narino departments, they fought each other. Various courts convicted members of the FARC secretariat in absentia on various charges including aggravated homicide, such as the 2001 massacre of 22 people in Tierralta, Cordoba, and the 1999 attack on Puerto Lleras that left 10 civilians and 11 police dead.

The FARC killed persons it suspected of collaborating with government authorities or paramilitary groups. The Presidential Program for Human Rights reported that during the first 11 months of the year, the FARC killed at least 220 civilians, while another 106 persons were killed in massacres in which the perpetrators remained unidentified.



On January 13, the FARC's 29th Front attacked the town of Roberto Payan, Narino, with improvised mortars, killing six civilians, including three children, and injuring 11 others.

On January 27, the FARC bombed a Blockbuster video store in Bogota, killing two civilians.

On February 12, the ELN killed three police officers and three civilians in an ambush in Convencion, Norte de Santander. The ELN first killed a married couple to serve as bait and, from the cover of high ground, attacked police first responders and civilians on the scene. Seventeen persons were wounded.

*Abductions.*—New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN terrorists continued to take hostages for ransom.

Fondelibertad reported that new illegal group members continued to be responsible for kidnappings. During the year government statistics began to track kidnappings by new illegal groups as organized crime, which accounted for 13 kidnappings during the year. The majority of kidnapping cases, 98, were attributed to common crime.

The FARC and ELN continued to commit numerous kidnappings, which remained a major source of revenue. The FARC also held politicians, prominent citizens, and members of the security forces to use as pawns in prisoner exchanges. Fondelibertad reported that guerrillas kidnapped 49 persons (in 28 percent of all cases a perpetrator was identified), the FARC 38 individuals, and the ELN 11 persons.

The FARC continued to hold 22 political hostages, as well as an estimated 44 economic hostages, representing a downward revision of estimates by the government. Foundation Free Country, an NGO that monitors kidnapping, estimated that the FARC held 48 hostages. Military action freed 81 kidnap victims through November 30.

Foundation Free Country criticized Fondelibertad's numbers. It estimated that at least 63 cases of kidnap victims were not included in Fondelibertad's database.

*Physical Abuse, Punishment, and Torture.*—According to preliminary reporting from the Presidential Program of Integrated Action Against Anti-personnel Mines, landmines, used primarily by the FARC and ELN, caused 94 deaths and 450 injuries during the first 11 months of the year, a 27 percent decrease in landmine incidents from the same period in 2008. Approximately 70 percent of landmine victims during the year were military personnel. The International Campaign to Ban Landmines stated that the FARC continued to be the largest individual user of landmines and that the ELN also continued to use landmines. The government created two additional Humanitarian Demining (HD) brigades, bringing the total number to six. The HD brigades had cleared 26 of the 34 military landmine fields. According to the Ministry of Defense, during the year the government cleared more than 90 mined areas. In November the government hosted the Second Review Conference for the Ottawa Convention Banning Anti-Personnel Landmines and signed the Cartagena Action Plan, which commits the government to ensure landmine victims receive timely and affordable assistance.

*Child Soldiers.*—Guerrillas and illegal armed groups used children as soldiers. According to the report of the UN secretary-general on children and armed conflict, the recruitment and use of children by illegal armed groups was widespread and remained a serious concern. The United Nations Children's Fund (UNICEF) and the Colombian Family Welfare Institute (ICBF) estimated the number of children participating in illegal armed groups ranged from 10,000 to 13,000. Effective November 1, when the government's reservation to the Rome Statute expired, the penalty for leaders of armed groups who use child soldiers rose to life imprisonment. The government agreed to the International Criminal Court's penalty for child recruitment when it ratified the Rome Statute in 2002 but delayed application of the law to provide an incentive to all illegal groups, especially the FARC, to free recruited children. The United Nations High Commission for Refugees (UNHCR) linked the phenomenon of forced displacement of families to that of forced recruitment of children. The FARC issued letters to indigenous communities outlining a policy to conduct child recruitment and warning recipients not to challenge it.

*Other Conflict-Related Abuses.*—Guerrillas failed to respect injured and medical personnel. Both the FARC and the ELN frequently executed injured prisoners, threatened and harassed doctors and nurses, and killed enemy combatants receiving medical care.

On January 12, in Tibu, Norte de Santander, the FARC burned six cars, including an ambulance.

On February 28, in Popayan, Cauca, the FARC kidnapped Tomas Vernaza Nino, a member of a medical mission.

On May 18, in El Tarra, Norte de Santander, the FARC killed civilian Jesus Duran Ascanio because he allegedly was a member of a paramilitary organization, a fact contested by the community. Adolfo Perez Avendano, a bystander, was injured. As Perez was being transported in an ambulance, the FARC stopped the ambulance and killed Perez at point blank range.

Guerrilla groups, new illegal groups, and paramilitary members who refused to demobilize also prevented or limited the delivery of food and medicines to towns and regions in contested drug trafficking corridors, straining local economies and increasing forced displacement.

Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes in strategic zones and to remove individuals who collaborated with the government or new illegal groups and paramilitary members who refused to demobilize. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example, ONIC and international organizations reported many incidents in which illegal armed groups forcibly recruited indigenous people or obligated them to collaborate, restricted their freedom of movement, and blockaded their communities in Choco, Valle del Cauca, Narino, and other departments. According to Awa indigenous authorities, after the February 4 massacre of eight members of the Awa indigenous group in Narino, the FARC confined several villages, affecting approximately 280 people. In the two-week period following the massacre, five children under two years of age died of malnutrition. On January 8, the special rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, stated that it was evident that violence from the internal armed conflict disproportionately affected indigenous groups in the country.

New illegal groups and paramilitary members who refused to demobilize continued to displace civilians residing along key drug and weapons transit corridors. In March confrontations between the Los Rastrojos criminal group and the ELN over control of drug and weapons trafficking routes resulted in the displacement of 335 Embera indigenous people, including 130 children. Nearly 30 individuals, including 21 children, were confined and unable to flee. Members of Los Rastrojos raped an unknown number of women, destroyed a school, damaged a power generator, and looted several houses (see section 2.d.).

In a report released in September, Oxfam International reported sexual violence against women and girls had become a “generalized and systemic practice” by all armed actors in the conflict. According to the report, sexual violence was one of the main causes of forced displacement. The report acknowledged that the crime was grossly underreported and that there was no way to estimate the number of victims (see section 6).

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

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

The independent media were active and expressed a wide variety of views without restriction. A number of independent newspapers and magazines published freely, and all print media were owned privately. Privately owned radio and television stations broadcast freely.

Government security forces and corrupt officials occasionally subjected journalists to harassment, intimidation, or violence (see section 1.f.).

Members of illegal armed groups intimidated, threatened, kidnapped, and killed journalists. National and international NGOs reported that local media representatives regularly practiced self-censorship because of threats of violence. During the year 171 journalists received protection from the Ministry of the Interior and Justice’s protection program. The ministry also supported an alert network organized for journalists by providing a small number of radios and an emergency telephone hotline. The Prosecutor General’s Human Rights Unit was investigating 48 cases of crimes against journalists involving 67 victims. The Unit achieved 22 convictions, and five additional defendants were standing trial at year’s end.

According to the NGO Foundation for Press Freedom, during the year one journalist was killed for reasons related to his work, compared with none in 2008. A total of 65 journalists received death threats, compared with 94 in the same period in 2008. Four journalists went into voluntary exile as a result of threats, compared with two in 2008. Foundation for Press Freedom considered the greatest threat to journalists during the year to have been illegal intelligence gathering by state agencies (see sections 1.f. and 1.g.).

*Internet Freedom.*—There were no government restrictions on access to the Internet. Individuals could engage in the peaceful expression of views via the Internet,

including by e-mail. The International Telecommunication Union reported that in 2008 there were 38 users of the Internet per 100 inhabitants.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events. However, guerrillas maintained a presence on many university campuses to generate political support for their respective causes and undermine support for their enemies through both violent and non-violent means. New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas threatened, displaced, and killed educators and their families for political and financial reasons. According to the Presidential Program for Human Rights, various assailants killed 19 educators through November 30, a reduction of 30 percent from the same period in 2008. The teachers' union, Colombian Federation of Educators, reported 18 educators were killed. Threats and harassment caused many educators and students to adopt lower profiles and avoid discussing controversial topics.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Freedom of association was limited in practice by threats and acts of violence committed by illegal armed groups against NGOs, indigenous groups, and labor unions (see section 1.g.).

Although the government does not prohibit membership in most political organizations, membership in organizations that espoused or carried out acts of violence, such as the FARC, ELN, and paramilitary groups, was illegal.

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

The Roman Catholic Church retained a de facto privileged status. Accession to certain voluntary stipulations within a 1997 public law is required for non-Catholic religions to minister to their adherents in public institutions and to perform marriages recognized by the state. When deciding whether to grant accession, the government considers a religion's total membership, its degree of popular acceptance within society, and other relevant factors.

*Societal Abuses and Discrimination.*—New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas harassed, threatened, and sometimes killed religious leaders and activists, although often for their role as community leaders rather than for religious reasons (see section 1.g.). The NGO Justapaz reported that during the year two Protestant pastors were killed; another pastor, along with his pregnant wife and two children, were abducted. According to the Catholic National Conference, 17 Catholic leaders received protection due to threats against them. The Presidential Program for Human Rights reported that illegal armed groups, especially the FARC, made numerous threats against priests and other religious workers.

The Jewish community had an estimated 5,000 members. Reports of anti-Semitism continued, including graffiti painted on the exterior walls of synagogues and anti-Semitic statements in pamphlets published by small anti-Semitic organizations.

Indigenous Christians reported they were prevented from practicing their faith while on indigenous reserves. Protestant groups reported approximately 28 Kogui Christians were detained for nearly two months by the Gonawindua Tayrona Organization (OGT), the governing body of the Sierra Nevada reserve, for practicing their faith. The OGT denied any individuals were held against their will and cited recent high court decisions that protect indigenous autonomy and the right of indigenous governments to deny public practice of religions different from traditional indigenous rites on reserves.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and while the government generally respected these rights in practice, there were exceptions. Military operations and occupation of certain rural areas restricted freedom of movement in conflict areas.

The government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

New illegal groups, paramilitary members that refused to demobilize, and FARC and ELN guerrillas continued to establish illegal checkpoints on rural highways, but an enhanced government security presence along major highways reduced the number of kidnappings. The Ministry of Defense reported no kidnappings at illegal roadblocks during the year, compared with nine in 2008 (see section 1.b.).

The law prohibits forced exile, and the government did not employ it. However, many persons went into self-imposed exile because of threats from new illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas.

*Internally Displaced Persons.*—The internal armed conflict, especially in remote areas, was the major cause of internal displacement. International organizations and civil society identified various factors driving displacement including confrontations between security forces, terrorists, new illegal groups, and paramilitary members who refused to demobilize, competition among illegal armed groups for resources and territorial control, forced recruitment of children, and threats and violence from new illegal groups and paramilitary members who refused to demobilize. Most IDPs were rural peasants displaced to cities. Estimates of the numbers of IDPs varied. During the year Accion Social, the government's internal welfare and foreign coordination agency, registered 111,414 new displacements, a 47 percent decline over the same period in 2008. The GOC's national IDP registry showed an 8 percent decline in new displacements, with 301,817 IDPs in 2008 compared with 328,264 IDPs in 2007. Accion Social cited continued improvement in security and territorial control and improved verification of fraudulent IDP claims as contributing factors in the decline. During the year Accion Social refused approximately 36 percent of registrations as ineligible, compared with a 29 percent refusal rate in 2008.

The NGO Consultancy for Human Rights and Displacement (CODHES) said that the government arbitrarily denied many registrations and that underregistration of IDPs remained a problem due to lack of access to the registration system or fear of retaliation from illegal armed groups. On January 26, the Constitutional Court acknowledged that despite some improvements, underregistration remained a problem and ordered the government to improve the IDP registration system. International organizations and civil society expected the number of registrations to rise as IDPs from previous years continued to register. According to Accion Social, the department of Narino registered the highest number of IDPs (17,110) during the year, followed by Antioquia (14,100), Cauca (9,013), and Tolima (8,354). CODHES estimated that 286,389 persons were displaced during the year, a 24 percent reduction compared with CODHES' estimate for 2008.

The government has registered a total of 3.3 million IDPs since 1995, while CODHES estimated that as many as 4.9 million persons have been displaced since 1985. Accion Social attributed the growth in cumulative IDP registrations in the past year to a 2008 Administrative Court (Consejo de Estado) order requiring the government to include displacements from all previous years. Under the previous system, an IDP only had one calendar year from displacement to register. The government's national registry included registered IDPs whose applications for recognition had been accepted, while CODHES estimated new displacements based on information from the media, civil society, and fieldwork. CODHES also included as IDPs an undetermined number of coca and opium poppy producers who migrated in response to government drug eradication efforts, as well as those who migrated due to poor economic conditions resulting from the armed conflict. During the year the ICRC provided assistance to 51,176 newly displaced persons—11,217 persons from massive displacements (groups of 50 or more persons) and 39,959 persons in individual displacements.

New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas continued to use forced displacement to gain control over strategic or economically valuable territory, weaken their opponents' base of support, and undermine government control and authority. Illegal armed groups also used landmines and roadblocks to confine entire villages in order to protect illicit crops and to prevent pursuit by state security forces. The FARC, ELN, new illegal groups, and paramilitary members who refused to demobilize continued to use force, intimidation, and disinformation to discourage IDPs from registering with the government; guerrilla agents often forced local leaders and community members to demonstrate against illicit crop eradication efforts, including causing mass displacements.

During the year the government registered 4,308 new IDPs who identified themselves as indigenous and 17,844 new IDPs who identified themselves as Afro-Colombian. ONIC estimated the number of displaced indigenous people to be much higher, since many indigenous people did not have adequate access to registration locations due to geographic remoteness, language barriers, or unfamiliarity with the national registration system. The local NGO Association of Internally Displaced Afro-Colombians (AFRODES) stated that threats and violence against Afro-Colombian leaders and communities continued to cause high levels of forced displacement, especially in the Pacific Coast region. CODHES estimated that 83 percent of mass displacement events during the year involved indigenous and Afro-Colombian communities.

The UNHCR concurred that indigenous and Afro-Colombian groups were disproportionately affected by displacement.

The government, international humanitarian assistance organizations, and civil society observed that the rate of mass displacements declined during the year. The ICRC assessed 53 mass displacement events during the year, a 23 percent decline compared with 2008. Accion Social reported a 63 percent decline in the number of IDPs from mass displacements through November compared with the same period last year. According to Accion Social, the departments with the highest numbers of IDPs from massive displacements in the year were Narino with 3,575, Choco with 1,432, Cauca with 523, and Antioquia with 496. CODHES recorded 77 mass displacement events affecting 19,981 persons during the year, compared with 82 mass displacement events affecting 43,357 persons in 2008. According to CODHES, Narino accounted for 56 percent of mass displacement events. CODHES estimated that 12,934 Afro-Colombians were displaced in 28 mass displacement events in Narino, Choco, Cauca, Valle del Cauca, and Antioquia. For example, the UNHCR and the UN Office of the Commissioner for Humanitarian Affairs (OCHA) reported that:

On February 4, approximately 500 persons fled the area of Tortugana-Telemi in the municipality of Barbacoas, Narino, after the reported massacre of eight members of the Awa indigenous group by the FARC (see sections 1.g and 6).

On March 2, combat between the military and the FARC caused the displacement of 576 persons (116 families) from Afro-Colombian communities in the municipality of Lopez de Micay, Cauca.

On March 4, approximately 2,000 members of the Embera indigenous group started to displace from rural areas along the Baudo River in Choco as result of threats and clashes between illegal armed groups in the area.

On September 24, intense combat between the military and the FARC near Bocas de Napi in the municipality of Guapi, Cauca, forced 212 persons from Afro-Colombian communities to flee the area.

OCHA, the ICRC, and the UNHCR reported on other mass displacements in other departments throughout the year:

On June 12, 550 persons (147 families) were displaced from Ituango, Antioquia, due to threats and attacks by the FARC.

On July 7, 224 individuals from the indigenous Zenu community left Puerto Libertador, Cordoba, due to confrontations between the army and the FARC. Fifty of the displaced were children under the age of 14.

During October and November, more than 450 persons displaced from rural areas in the municipality of Buenaventura, Valle del Cauca, due to threats and abuses by an illegal armed group and confrontations between that group and the military.

During the first week of December, 80 persons (21 families) from Afro-Colombian communities were displaced in the rural area of Bajo Baudo municipality, Choco, after members of an illegal armed group kidnapped two members of the Litoral del San Juan community.

CODHES also reported that at least eight IDP community leaders were killed during the year. On April 14, Ana Isabel Gomez Perez, a leader of displaced communities and a victims' advocate, was killed by unknown assailants in Los Cordobas, Cordoba. On July 23, an unknown assailant killed Guillermo Ramos Rosso in Volador, Cordoba. Ramos worked on a program to recuperate land from former paramilitary members for redistribution to IDPs. On May 22, a UNHCR official expressed concern over death threats against human rights workers and social activists, including displaced leaders.

The government budgeted approximately 1.3 trillion pesos (approximately \$650 million) to provide assistance to IDPs during the year. Assistance to registered IDPs was delivered through Accion Social, the ICBF, the Ministry of Social Protection (MSP), and other governmental ministries and agencies.

Assistance organizations pointed out that the emergency response to mass displacements was more difficult and costly to mount, since most displacements took place in more remote locations; however, the speed and effectiveness of the response has improved in recent years. Additionally, international organizations and civil society reported that a lack of local capacity to accept registrations in high-displacement areas often delayed by several weeks or months assistance to persons displaced individually or in smaller groups. Intense fighting and insecurity in conflict zones, including areas in the departments of Antioquia, Arauca, Cauca, and Narino, sometimes delayed national and international aid organizations from accessing newly displaced populations.

Despite several government initiatives to enhance IDP access to services and knowledge of their rights and notable improvements in meeting their social and economic needs, many IDPs continued to live in unhygienic conditions with limited ac-

cess to health care, education, or employment. On January 26, the Constitutional Court ordered the government to reformulate its IDP programs and policies, including improving the IDP registration system, to address the continuing “unconstitutional state of affairs” in providing for IDP rights. The court also ordered the government to implement specific protection and assistance programs for displaced indigenous people, Afro-Colombians, disabled persons, and IDP community leaders (a previous 2008 order provided this right for displaced women and children). Several international organizations and domestic nonprofit groups, such as the International Organization for Migration (IOM), the ICRC, and the Colombian Red Cross, worked with the government to provide emergency relief and long-term assistance to displaced populations.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol to which the country is a party, and the government has established a system for providing assistance to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government reserved the right to determine eligibility for asylum, based upon its own assessment of the nature of an applicant’s claim. According to the government, 193 recognized refugees resided in the country. During the year 334 persons applied for refugee status, of which 27 refugee cases were approved and 237 rejected.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, generally free and fair elections held on the basis of nearly universal suffrage. Active duty members of the armed forces and police may not vote or participate in the political process. Civilian public employees are eligible to vote, although they may participate in partisan politics only during the four months immediately preceding a national election.

*Elections and Political Participation.*—In 2006 independent candidate Alvaro Uribe won a second four-year term as president in elections that were considered generally free and fair, despite a concerted campaign by the FARC and ELN to disrupt or manipulate the outcome. The OAS electoral observation mission stated that the elections took place “in an atmosphere of freedom, transparency, and normalcy.”

Political parties could operate without restrictions or outside interference. The Liberal and Conservative parties previously dominated politics. The reelection of President Uribe as an independent in 2006 and the second-place showing of the Polo Democratico presidential candidate, Carlos Gaviria, reflected a widening of the political arena. More than 20 political parties from across the political spectrum were represented in Congress. In 2007 Polo Democratico candidate Samuel Moreno was elected mayor of Bogota.

New illegal groups, paramilitary members who refused to demobilize, and the FARC threatened and killed government officials (see section 1.g.). According to the Presidential Program for Human Rights, eight municipal council members were killed through November, compared with 12 in the same period 2008.

Some local officials throughout the country resigned because of threats from the FARC. A program by the Ministry of Interior and Justice provided protection to 233 mayors, 29 former mayors, and 3,338 council members during the year.

The law requires that women be placed in at least 30 percent of appointed government posts and that the government report to Congress each year the percentage of women in high-level government positions. There were 13 women in the 102-member Senate and 14 in the 166-member House of Representatives. There were three women in the 13-member cabinet and four on the 23-member Supreme Court. Additionally, there were 11 women on the higher courts: one on the Constitutional Court, eight on the State Council, and two on the CSJ.

Two indigenous senators and one indigenous member of the House of Representatives occupied seats reserved for indigenous persons. There were no indigenous cabinet members and no indigenous persons on any of the nation’s high courts.

There were 10 self-identified Afro-Colombian members of the House of Representatives; nine were part of the Afro-Colombian caucus and two occupied seats reserved for Afro-Colombians. There were no seats reserved for Afro-Colombians in the Senate. There was one Afro-Colombian cabinet minister; there were no Afro-Colombians on any high court.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government actively prosecuted cases of governmental corruption; however, officials sometimes engaged in corrupt practices with impunity. The World Bank's worldwide governance indicators reflected that government corruption was a problem. Drug trafficking revenues exacerbated corruption.

On September 21, five senior officials from the Ministry of Transportation and the National Concessions Institute, including its director, were forced to resign after recorded telephone conversations implicated them in soliciting bribes in connection with the Central Magdalena railroad concession. Investigations continued at the end of the year.

Former agricultural minister Andres Felipe Arias and other ministry officials were implicated in a scandal involving inappropriate use of the Agriculture Ministry's irrigation and drainage loan program. Investigations continued at the end of the year.

On April 13, the Superior Tribunal of Medellin sentenced the former president of the Antioquia Assembly to eight years and three months for irregularities in contracts.

In July the Supreme Court's criminal chamber sentenced former representative Teodolindo Avendano to eight years in prison for accepting a bribe to abstain from voting against changing the constitution to allow President Uribe's 2006 reelection.

The Justice and Peace Law (JPL) process continued to expose corruption and paramilitary ties within the government and security forces. The president continued funding for the Supreme Court's investigative unit, which investigated members of Congress and senior government officials. On August 19, the Supreme Court convicted former representative Karelly Patricia Lara Vence to six years in prison for paramilitary ties. The primary government body to investigate corruption is the Presidential Program for the Fight Against Corruption.

By law public officials must file annual financial disclosure forms.

The law provides for public access to government information, and the government generally provided such access in practice. While there are no prohibitive fees to access government information, there were reports that some low-level officials insisted on bribes to expedite access to information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government and prominent local human rights groups differed in their evaluations and analyses of the human rights situation, which led to mutual suspicion. NGOs reported that criticism from high-level officials, including President Uribe, linking the groups to guerrilla groups, put them at risk for retaliation by new illegal groups and paramilitary members who refused to demobilize. Many domestic NGOs also said that the government arbitrarily arrested and detained human rights activists, particularly in high-conflict areas. NGOs reported that the Prosecutor General's Office had pursued numerous unfounded judicial cases against legitimate human rights defenders with the purpose of discrediting their work. The government asserted that some human rights activists engaged in activities that supported terrorism (see section 1.e.).

The UN special rapporteur on the situation of human rights defenders, Margaret Sekaggya, concluded patterns of harassment and persecution against human rights defenders, including arbitrary arrest and detention, continued to exist in the country. Sekaggya said the primary reason for insecurity of human rights defenders lay in the systematic stigmatization of defenders by government officials. NGOs also complained about what they described as intolerant and hostile statements from the government regarding the work of human rights defenders. On September 17, during the special rapporteur's visit, President Uribe made a public statement supporting the work of human rights defenders.

Several thousand human rights and civil society NGOs were registered in the country, although most existed only on paper. Local human rights NGOs had far-reaching influence. By sharing information and disseminating it to international human rights organizations and the media, NGOs raised the country's human rights profile and contributed to significant levels of international attention.

According to the CCJ, eight human rights activists were killed during the year. Two were female IDP leaders and two were LGBT activists. The CCJ reported a rising trend of attacks against women leaders of the IDP population.

Several NGOs reported receiving threats in the form of e-mail, mail, telephone calls, obituaries, objects, or directly from unknown individuals. According to the

UNHCHR, reports of threats doubled during the year. The government condemned the threats, and the police launched a special unit to work on such cases. The Prosecutor General's Office launched 193 investigations, which continued at year's end.

A Ministry of Interior and Justice program provided protection to more than 567 human rights activists during the year (see section 2.a.). The government enhanced this security at eight NGO offices during the year.

The government cooperated with international organizations. The UNHCR, IOM, International Labor Organization (ILO), UNHCHR, and ICRC had an active presence in the country and carried out their work without government interference.

UN special rapporteur missions included the special rapporteur on extrajudicial killings, June 8-18; the special rapporteur on the situation of human rights and fundamental freedoms of indigenous people, July 22-27; the special rapporteur on the situation of human rights defenders, September 7-19; and the special rapporteur on the independence of judges and lawyers, December 7-16.

The government continued to meet with the UNHCHR, local NGOs, and members of the diplomatic corps to discuss steps it had taken to comply with UNHCHR recommendations on improving human rights practices. While acknowledging progress on several recommendations, the UNHCHR and local NGOs reported that the government had not fully implemented most of them by year's end.

The national human rights ombudsman is independent, submits an annual report to the House of Representatives, and has responsibility for ensuring the promotion and exercise of human rights. The ombudsman's Bogota office was the headquarters of a national Early Warning System designed to alert public security forces and the national and regional governments of impending massive human rights violations. The ombudsman's office was underfunded, which limited its ability to monitor human rights violations effectively. Some human rights groups complained that the government lacked the political will to publish Early Warning System reports, and they said a significant number of regional reports were never published. Members of the ombudsman's regional offices were under constant threat from illegal armed groups via pamphlets, e-mails, and violent actions. On May 11, a pamphlet signed by the illegal armed group Black Eagles declared early warning system workers in Magdalena, Guajira, and Cesar departments to be "targets." On July 28, unknown assailants shot at the car of the human rights ombudsman for Valle del Cauca; no one was injured.

The Presidential Program for Human Rights, which operated under the authority of the vice president, coordinates national human rights policy and actions taken by government entities to promote or protect human rights. The program is the government's primary interlocutor with domestic and international NGOs and with foreign governments on human rights issues. The program publishes the Human Rights Observer magazine, which provides analyses of major human rights issues and the human rights situation in various regions of the country.

Both the Senate and House of Representatives have human rights committees. The committees serve as forums for discussion of human rights issues but have no authority to draft legislation.

Implementation of the 2005 JPL continued. The Justice and Peace Unit in the Prosecutor General's Office is responsible for the required investigation and prosecution of demobilized persons under the law, and an interinstitutional commission on Justice and Peace was created to coordinate its implementation. Through November, 3,950 persons had been presented as eligible for the JPL; 3,727 of these were former paramilitary members, including 25 commanders, and 223 were former guerrilla members. More than 1,952 proffers or "versiones libres" have been taken, in which the Prosecutor General's Office identified almost 35,000 crimes, more than 29,000 of them homicides. There were 50,000 victims involved in the 35,000 identified crimes. A total of 274,000 victims had registered with the Prosecutor General's Office, and 2,300 graves had been exhumed involving the remains of 2,800 persons; remains of 850 victims were identified, and 721 were returned to their families. Testimony from the voluntary confessions also triggered investigations of politicians, military members, major agricultural producers, and government officials' ties to paramilitary forces.

Despite advances in the JPL process, the application of the law continued to face many challenges, including zero convictions of paramilitary leaders since 2005, thousands of former paramilitary members who remained in legal limbo, and no land or money reparations of properties confiscated from paramilitary leaders. NGOs and victims criticized the slow pace of determining the truth, while the Prosecutor General's Office said pressure to reveal all truths behind paramilitary crimes delayed prosecutions.

The government's Program of Administrative Reparations paid 200 billion pesos (\$100 million) in reparations to victims of illegal armed groups. The Victim Protec-



tion Program under the Ministry of Interior and Justice protected 126 victims involved in the Justice and Peace process, and during the year the government spent 90 billion pesos (approximately \$45 million) on the program. The National Commission of Reconciliation and Reparation maintained offices in nine cities, including Sincelejo, Barranquilla, Bucaramanga, and Medellin. The offices contained one-stop informational centers for victims and assisted victims with enrollment, and receipt of legal and psychological support.

In spite of the advances in the implementation of the Justice and Peace process and the increasing participation of victims, the OAS reported continuing shortfalls in protection of victims. The OAS reported that victims were highly susceptible to killings, threats, and intimidation, and that government effort was uncoordinated.

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

Although the law specifically prohibits discrimination based on race, gender, disability, language, or social status, many of these prohibitions were not enforced in practice.

*Women.*—Although prohibited by law, rape, including spousal rape, remained a serious problem. The law provides for sentences ranging from eight to 15 years' imprisonment for violent sexual assault. For acts of spousal sexual violence, the law mandates sentences of six months to two years and denies probation or bail to offenders who disobey restraining orders. The National Institute for Legal Medicine and Forensic Science reported 15,418 cases of suspected sex crimes, including rape, during the year, but indicated that many cases went unreported. New illegal group members, paramilitary members who refused to demobilize, and guerrillas raped, sexually abused, and sometimes sexually mutilated women and children for fraternizing with the enemy, working as prostitutes, having sexual relations outside of marriage, or violating imposed codes of conduct or restrictions on dress (see section 1.g.). The ICBF provided psychosocial, medical, and legal support to victims of sexual violence.

Although prohibited by law, domestic violence, including spousal abuse, remained a serious problem. Judicial authorities may remove an abuser from the household and require therapy or reeducation. The law provides prison time if the abuser causes grave harm or the abuse is recurrent; however, provisions for fines were not applied. The National Institute for Legal Medicine and Forensic Science reported approximately 54,000 cases of domestic violence against women during the year, but it noted that only a small percentage of cases were brought to its attention for investigation and follow-up. The law stipulates that the government must provide victims of domestic violence with immediate protection from physical or psychological abuse. The ICBF provided safe houses and counseling for victims, but its services could not meet the magnitude of the problem. In addition to fulfilling traditional family counseling functions, ICBF family ombudsmen handled domestic violence cases. The Human Rights Ombudsman's Office conducted regional training workshops to promote the application of domestic violence statutes.

Adult prostitution is legal in designated "tolerance zones," but enforcement of, and restriction to, the zones remained difficult. Prostitution was widespread and exacerbated by poverty and internal displacement. Sex tourism existed to a limited extent, particularly in coastal cities such as Cartagena and Barranquilla, where marriage and dating services were often fronts for sexual tourism. The law prohibits organizing or facilitating sexual tourism and provides penalties of three to eight years' imprisonment. Trafficking in women for sexual exploitation continued to be a problem.

The law provides measures to discourage and punish harassment at the workplace, such as sexual harassment, verbal abuse or derision, aggression, and discrimination. Nonetheless, sexual harassment remained a pervasive problem.

Although women enjoy the same legal rights as men, discrimination against women persisted. Women faced hiring discrimination, were disproportionately affected by unemployment, and had salaries that generally were incompatible with their education and experience. Female workers in rural areas were affected most by wage discrimination and unemployment.

Couples and individuals had the right to decide on the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Women and men had access to contraception. According to the Population Reference Bureau, 93 percent of women were able to satisfy their family planning needs. The majority of births, 86 percent, were attended by a skilled professional. Women have equal access to health care and diagnosis for sexually transmitted diseases.

The president's advisor for equality of women has primary responsibility for combating discrimination against women. The advisor managed a program to help

women who were microbusiness entrepreneurs and heads of families to get favorable lines of credit for their companies. During the year the government provided to women 10,247 microcredit loans, in the amount of 11.4 billion pesos (approximately \$5.7 million). During the year 5,851 women attended 29 government-sponsored seminars on establishing microbusinesses.

*Children.*—Citizenship is derived by birth within the country's territory. By law primary education was compulsory, free, and universal, but this was not always true in practice. Rural schools often could not offer classes because they lacked teachers.

Child abuse was a serious problem. The National Institute for Legal Medicine and Forensic Sciences reported 10,396 cases of child abuse through November 30. The institute also estimated that approximately 86 percent of reported sex crimes involved sexual abuse of children, most of whom were under age 14.

Female genital mutilation (FGM) is performed in the 20,000-person Embera Chami indigenous community in Risaralda. During the year the indigenous community suspended the practice for a period of two years to evaluate its effects on girls. Despite this decision, the NGO Committee for the Defense of Women and Girls of the Embera Chami reported at least two cases of FGM performed on infant girls who required hospitalization. Since FGM is practiced privately in the home, there were no estimates for how often FGM was practiced during the year.

According to the ICBF, as of November 30, there were 470 reports of minors engaging in independent or forced prostitution; many other cases went unreported. Children were trafficked for sexual exploitation and engaged in child pornography. On July 30, the president approved a law that increases the penalties for sexual tourism involving minors. The law authorizes the government to confiscate profits from hotels and other establishments where sex with minors is performed.

Guerrillas forcibly recruited and used children as soldiers, including indigenous children (see Section 1.g.). An estimated 10,000 to 13,000 children were child combatants. At least 269 children (202 of them former members of the FARC) surrendered to state security forces during the year and were transferred to the ICBF, which operated a reintegration program for former child soldiers.

According to government registrations, 77 percent of IDPs were women and children. Displaced children particularly were vulnerable to physical abuse, sexual exploitation, and recruitment by criminals.

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, there were reports that persons were trafficked from, through, and within the country.

The country was a major source for trafficking in persons, primarily for sexual and labor purposes. During the year the national trafficking prevention hotline received 2,097 calls, 39 (1.86 percent) directly related to trafficking. Most calls were preventive in nature, with callers asking for information on a potential trafficking scheme. The vast majority of trafficking victims were young women, although children and young men were also at risk. Destinations and routes included Aruba, China, Ecuador, Germany, Holland, Italy, Iran, Japan, Jordan, Mexico, Panama, the Philippines, Portugal, Spain, and the United States. Victims also transited the country from other South American and African countries on their way to Europe and the United States. Internal trafficking of women and children from rural to urban areas for sexual exploitation and forced labor remained a serious problem.

Many traffickers disclosed the sexual nature of the work they offered but concealed information about working conditions, clientele, freedom of movement, and compensation. Others disguised their intent by portraying themselves as modeling agents, offering marriage brokerage services, providing study programs, or operating lottery or bingo scams with free trips as prizes. Recruiters reportedly loitered outside high schools, shopping malls, and parks to lure adolescents into accepting non-existent jobs abroad. The IOM and domestic NGOs estimated that international organized crime networks were responsible for most transnational trafficking. Domestically, organized crime networks, some related to illegal armed groups, were also responsible for trafficking for sexual exploitation or organized begging, and the armed conflict made a large number of IDP victims vulnerable.

The law provides for prison sentences between 13 and 23 years and fines up to 1,000 times the monthly minimum wage for trafficking offenses. These penalties may be increased by up to one-half if there are aggravating circumstances, such as trafficking of children younger than 12. Additional charges of illegal detention, violation of the right to work in dignified conditions, and violation of personal freedom also may be brought against traffickers. While limited resources hindered prosecutions, the Prosecutor General's Office continued to open new investigations and continued progress on current trials. The Prosecutor General's Office opened 134 cases

for trafficking in persons during the year; 21 individuals were placed in preventive detention; 27 individuals were convicted and sentenced.

With the support of the IOM, the National Committee against Trafficking (composed of 14 agencies) prepared information campaigns, promoted information exchange among government agencies, and began use of a database to monitor trafficking cases. During the year 15 departments established interagency committees to combat trafficking in persons locally. The Ministry of Interior and Justice, with technical assistance from the UN Office on Drugs and Crime (UNODC) and IOM, worked with the Prosecutor General's Anti-Human Trafficking Center to take the lead on combating trafficking. The government cooperated with foreign counterparts on investigations. In August the government hosted a bilateral antitrafficking conference for counterparts in Panama. There was no evidence of institutional involvement in trafficking in persons by government bodies or officials.

The country's diplomatic missions worked with the IOM to repatriate victims. The IOM strengthened government institutions involved in antitrafficking efforts and assisted trafficking victims; during the year the IOM and the UNODC trained officials on specific trafficking issues and provided awareness-raising training to NGO groups. The IOM also provided victims with job training and employment opportunities, temporary emergency shelter, necessary medical and psychological care, and opportunities for social reintegration. The Hope Foundation, an antitrafficking NGO, provided educational information, social support, and counseling to trafficking victims. The Rebirth Foundation (another antitrafficking NGO) provided housing, psychosocial therapy, medical care, and legal assistance to child victims of sexual exploitation.

The government advertised a national hotline to prevent trafficking and report violators. The IOM worked with the government to continue its antitrafficking public awareness campaign that included placing posters in airports, bus stations, consulates, and travel agencies, and running public service announcements on radio and television. The UNODC provided training to public prosecutors on trafficking issues.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, and the government sought to enforce these prohibitions. No law mandates access to public buildings for persons with disabilities, thus limiting the power of the government to penalize those schools or offices without access, but both national and local governments addressed this with programs aimed at improving access. The law provides persons with physical disabilities access to voting stations. The Presidential Program for Human Rights is responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—According to the 2005 national census, approximately 4.5 million persons, or 10.6 percent of the population, described themselves of African descent. However, human rights groups and Afro-Colombian organizations estimated that Afro-Colombians comprised up to 20 to 25 percent of the population. While Afro-Colombians are entitled to all constitutional rights and protections, they faced significant economic and social discrimination. According to the National Administrative Department of Statistics (DANE), an estimated 58 percent of Afro-Colombians lived in poverty; their infant mortality rate was almost two times higher than the general population. Choco, the department with the highest percentage of Afro-Colombian residents, had the lowest per capita level of social investment and ranked last in terms of education, health, and infrastructure. It also continued to experience some of the country's worst political violence, as new illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas struggled for control of the department's drug- and weapons-smuggling corridor (see section 1.g.).

The Commission for Advancement of Afro-Colombians, headed by the vice president and consisting of several government officials, academics, business and community leaders, and two foreign congressmen, provided recommendations to the government in May on how to improve education, income generation, and political representation within the Afro-Colombian population. The recommendations were based on data collected from 17 regional workshops with civil society throughout the country. Although the Ministry of Interior and Justice in conjunction with the Vice President's Office drafted a Law of Equality to implement the recommendations, it was never introduced in Congress.

*Indigenous People.*—The constitution and laws give special recognition to the fundamental rights of indigenous people, who comprised approximately 3.4 percent of

the population, and require that the government consult beforehand with indigenous groups regarding governmental actions that could affect them.

The law accords indigenous groups perpetual rights to their ancestral lands. Traditional indigenous authorities operated 711 reservations, accounting for 30 percent of the country's territory, with officials selected according to indigenous traditions. However, many indigenous communities had no legal title to lands they claimed, and illegal armed groups often violently contested indigenous land ownership.

The law provides for special criminal and civil jurisdictions within indigenous territories based on traditional community laws. Proceedings in these jurisdictions were subject to manipulation and often rendered punishments that were more lenient than those imposed by regular civilian courts. The law permits indigenous communities to educate their children in traditional dialects and in the observance of cultural and religious customs. Indigenous people are not subject to the national military draft.

Indigenous leaders complained about the occasional presence of government security forces on indigenous reservations and asked that the government consult with indigenous authorities prior to taking military action against illegal armed groups and guerrillas operating in or around such areas. The government stated that for security reasons it could not provide advance notice of most military operations and that it consulted with indigenous leaders when possible before accessing land held by the communities. The law permits the presence of government security forces on indigenous lands; however, Ministry of Defense directives instructed security forces to respect the integrity of indigenous communities, particularly during military and police operations. The Ministry of Defense's Integrated Policy on Human Rights stresses the importance of protecting indigenous communities.

The Ministry of Interior and Justice, through its Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and traditional rights of indigenous people. Ministry representatives, together with inspector general and human rights ombudsman representatives, worked with other governmental human rights organizations and NGOs to promote indigenous interests and investigate violations of indigenous rights. The ministry is also responsible for buying land to add to indigenous reserves.

Despite special legal protections and government assistance programs, indigenous people continued to suffer discrimination and often lived on the margins of society. The indigenous people were the country's poorest population and had the highest age-specific mortality rates and rates of intestinal diseases, tuberculosis, hepatitis, and malaria.

UNHCHR reported that ethnic groups, particularly indigenous people and Afro-Colombian populations, were increasingly vulnerable as a result of the internal armed conflict. The special rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, reported that there were alarming patterns of forced displacement, homicide, hunger, and other serious problems due to the internal armed conflict. The special rapporteur also signaled the FARC's complete disregard for human rights.

The Presidential Program for Human Rights reported that through November 30, there were 101 homicides of indigenous people, an increase of 63 percent from the same period in 2008. Mass killings of indigenous people included:

On February 4, the FARC killed eight members of the Awa indigenous community in Barbacoas, Narino. The FARC announced the Awa were killed due to their alleged collaboration with the Colombian military.

On August 26, 12 Awa indigenous persons, including six minors, were killed in their home. Five members of an illegal armed group were arrested in conjunction with the crime.

The UNHCHR continued to criticize threats and violence against indigenous communities, characterized government investigations of human rights violations against indigenous groups as inadequate, and appealed to the government to do more to protect indigenous people.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Colombia Diversa, an NGO focused on violence and discrimination due to sexual orientation, reported at least 39 killings during the year due to prejudice regarding sexual orientation. LGBT activists were the subjects of "social cleansing" threats and attacks (see section 1.g.). The Constitutional Court recognized the right of same-sex couples to pension; nevertheless, Colombia Diversa reported the law was frequently not applied due to lack of knowledge by government employees. There was no official discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. However, Colombia Diversa reported societal discrimination. Colombia Diversa reported cases of police abuse against persons due to their sexual orientation, with the majority of

complaints coming from transgender individuals. The group also claimed that violence in prisons against persons due to their sexual orientation remained a problem. Colombia Diversa reported several cases of threats against human rights defenders working on LGBT issues. Colombia Diversa cited a high level of impunity for crimes against members of the LGBT community. Government authorized Gay Pride marches took place in several cities on June 28; there were no reports of insufficient security for the participants.

*Other Societal Violence or Discrimination.*—There were no confirmed reports of societal violence or discrimination towards persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right to organize unions, and the government generally respected this right in practice. The law does not extend this right to members of the armed forces or police. Approximately 815,000 workers (4.4 percent of the workforce of 18.4 million) were union members. Almost 60 percent of the workforce was employed in the informal sector.

The labor code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a registration process. Until recently, trade union leaders claimed that this process was slow and used to block union registration. Some union leaders claimed that bureaucratic hurdles gave companies time to fire organizers before they could officially establish unions. However, in July 2008 the Constitutional Court ruled that filing union registration documents with the Ministry of Social Protection (MSP) immediately establishes the legal status of a union and that the MSP has no discretion over the content of the registration documents. With this ruling the courts largely removed any legal basis for the MSP to interfere in the registration process.

Violence and discrimination against union members discouraged some workers from joining and engaging in union activities. The MSP reported that 28 trade unionists were killed during the year, compared with 38 in 2008, while the National Union School (ENS), a labor rights NGO, reported that 39 trade unionists were killed, compared with 49 in 2008. ENS and government figures differed because of different methodological conceptions of trade union membership. According to data provided by the government and ENS, during the year the homicide rate per 100,000 was five for unionists and 35 for the general population.

The ENS and other labor groups acknowledged an improvement from 2008 but warned that focusing on murders alone masked the true nature and scope of the antiunion violence. ENS reported that only 26 percent of the 10,364 “violations of life, liberty, and integrity” of unionists it had tallied since 1986 had been murders. The majority consisted of death threats (4,418) and forced displacements (1,611), as well as arbitrary detentions, harassment, nonlethal attacks, disappearances, kidnappings, torture, and illegal searches. Labor groups said that while murders had dropped, nonlethal violations continued.

Teachers made up the largest percentage of union members who were victims of violence by illegal armed groups, both because they constituted 27 percent of all registered unionists and because of their presence in rural, conflict-ridden parts of the country. The MSP reported that 15 of the 28 (54 percent) of the unionists killed during the year were teachers, while ENS reported 15 of 39 (38 percent) unionists were teachers. The teachers union, Colombian Federation of Educators, reported three nonunionized educators were also killed during the year, for a total of 18.

The government provided protection to 11,179 at-risk individuals of whom 1,550 were trade union leaders (others protected included journalists, human rights advocates, and social leaders); the protection program received annual funding of 90 billion pesos (\$45 million). The Ministry of Education (MOE) managed a separate protection program for educators, the majority of whom are unionized, consisting of a transfer program. The MOE has removed 2,043 educators from dangerous situations since the program began in 2003.

Since 2000 the Prosecutor General’s Office obtained 234 convictions (209 for murders) of 334 perpetrators of violent acts against trade unionists. A special Labor Sub-Unit was set up in 2006 to prosecute those who commit such acts and was assigned a total of 1,344 cases. It obtained 184 convictions (79 percent of the labor crimes convictions), including 69 in 2009. Still, a majority of the 1,344 cases remained under investigation or were in the preliminary stages of the prosecutorial process. While labor groups recognized important advances made by the Labor Sub-Unit of the Prosecutor General’s Office, they said more needed to be done to end impunity for perpetrators of violence against trade unionists.

The law provides for the right to strike, and workers exercised this right in practice. Members of the armed forces, police, and persons performing “essential public

services” were not permitted to strike. During the year the courts declared three work stoppages illegal.

Before conducting a strike, unions must follow prescribed legal procedures and give advance notice to their employers and local authorities. The law prohibits the use of strikebreakers. The law prohibiting public employees from striking was often ignored. Employees are not required to accept binding arbitration if they cannot reach an agreement.

There were reports that employers used temporary contracts and associated workers’ cooperatives (CTA), both of which are legal, to reduce nonwage costs and avoid unionization. Such workers are not covered by the labor code. Unionists advocated revising the labor code, which currently defines a “worker” as a direct hire with an employment contract, to include a greater percentage of the workforce.

*b. The Right to Organize and Bargain Collectively.*—The law provides workers the right to organize and bargain collectively, and the government respected this right in the private sector; however, collective bargaining was not implemented fully in the public sector. Labor unions assessed that high unemployment, a large informal economy, antiunion attitudes, and violence against trade union leaders made organizing difficult, which limited workers’ bargaining power across sectors. Economists judged that mandatory high nonwage benefits in the formal sector depressed formal employment and union membership, and increased informality. According to the ENS, in 2008, 0.8 percent of the workforce was covered by a collective bargaining agreement.

In February the president issued Decree 535, creating a formal process whereby public-sector unions may submit demands to their public-sector employers, who are obliged to respond or initiate “discussions.” Unions criticized the decree as ineffectual for lack of any binding mechanisms. There are no collective bargaining agreements in the public sector.

Collective pacts between individual workers and their employers were not subject to collective bargaining and were often used to subvert collective bargaining. Collective pacts, which are legal, give employers the right to negotiate accords on pay and labor conditions at any time with groups of workers when no union is present or when a union represents less than one-third of employees. Labor groups complained that when a minority union presented a collective bargaining proposal, employers offered some workers better conditions and pay in exchange for their leaving the union and joining the pact, which undermined organized labor’s ability to bargain collectively.

The continued growth and prevalence of CTAs further diminished collective bargaining because CTA workers were not covered by the labor code and hence could not bargain collectively. Law 1233, passed in 2008, requires CTAs to register with the government and provide compensation at least equivalent to the minimum wage and the same health and retirement benefits normally offered to directly hired employees. While this reduced the economic incentive to hire CTA workers over direct hires, unions complained that it did nothing to extend collective bargaining rights to CTA workers.

Decree 4588 prohibits the use of CTAs as subcontractors when they do not own the means of production, when they are used to perform core functions for a company, and when a company itself directly disciplines CTA workers. Still, evidence suggests that many cooperatives engaged in illegal forms of subcontracting, and in some cases private-sector employers forced workers to join CTAs that they themselves managed. The government has the authority to fine labor rights violators but seldom shuts down repeat offenders. During the year the government investigated 788 cooperatives and sanctioned 86. In practice nominal fines assessed by the government did little to dissuade violators.

While the law prohibits antiunion discrimination, some longstanding ILO criticisms of the labor code remained, including the right to fire trade unionists who participate in illegal strikes or work stoppages as determined by the courts, and the prohibition of strikes in a wide range of public services that are not strictly “essential,” as defined in ILO standards.

There are no special laws or exemptions from regular labor laws in export processing zones. Labor law applies in the country’s 58 free trade zones where its standards were enforced.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but there were some reports that such practices occurred (see section 6.d.).

New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas practiced forced conscription. There were some reports that FARC and ELN guerrillas, new illegal groups, and paramilitary members that re-

fused to demobilize used forced labor, including child forced labor in coca cultivation, in areas outside government control (see section 1.g.). There were also reports of forced commercial sexual exploitation. In addition, there were reports of children from Ecuador working as coca pickers and children from Honduras and Nicaragua working in forced-labor fishing.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—While there are laws to protect children from exploitation in the workplace, child labor remained a problem in the informal and illicit sectors. Significant incidences occurred in the following eight industries: clay bricks, coal, coffee, emeralds, gold, sugar cane, coca, and pornography. By September the ICBF reported 6,884 complaints of labor exploitation and 470 child victims of commercial sexual exploitation. The ICBF assisted 1,806 children victimized through commercial sexual exploitation throughout the country.

The minimum age for employment is 15. Minors between 15 and 17 years of age must obtain authorization from the local inspection units of the MSP. Such minors may work only six hours per day and 30 hours per week, with no work hours past 6 p.m. Minors between 17 and 18 years of age may only work eight hours per day, 40 hours per week with no work hours past 8 p.m. Minors under age 15 may receive authorization from the local inspection unit to engage in remunerated activities in art, culture, recreation, or sport. However, the authorization establishes the maximum number of hours and specific labor conditions; a minor younger than 15 may not engage in remunerated activities more than 14 hours per week. According to the DANE, there were 11.5 million children between the ages of five and 17, of whom approximately 1.6 million worked. Member organizations of the National Inter-agency Committee to reduce the worst forms of child labor and to protect minor workers reported up to two million children who worked, the majority of whom worked illegally. ENS reported that 38 percent of children who worked did not receive payment.

The legal minimum age for work was consistent with completing basic education. All child workers were prohibited from working at night or performing work where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. Although children were prohibited from working in a number of specific occupations, including mining and construction, in practice these prohibitions largely were ignored. Children worked in artisanal mining of coal, clay, emeralds, and gold under dangerous conditions.

The ICBF identified and assisted 2,137 children working in illegal mining operations during the year. Estimates of the total number of children who worked in illegal mining operations varied from 10,000 to 200,000. The minor's code provides for fines of up to 40 times the minimum monthly wage for violations of child labor laws. A violation deemed to endanger a child's life or threaten moral values may be punished by temporary or permanent closure of the responsible establishment.

According to the DANE, children also worked in the illegal drug trade and other illicit activities. Several thousand children were forced to serve as combatants, prostitutes or coca pickers for the FARC, ELN, new illegal groups, or paramilitary groups that refused to demobilize (see section 1.g.).

The MSP's 180 labor inspectors nationwide were responsible for enforcing child labor laws in the formal sector (which covered approximately 20 percent of the child labor force) through periodic inspections. Resources were inadequate for effective enforcement. With assistance from the ILO, the government worked to improve cooperation among national, regional, and municipal governments through its national plan to eradicate child labor and protect working youth. The ILO's International Program on the Elimination of Child Labor operated a program to prevent children from engaging in commercial sexual exploitation, while private groups and foreign governments conducted programs to remove children from the worst forms of child labor. The government, in conjunction with the IOM and UNICEF, provided services to former child soldiers and carried out awareness-raising campaigns to prevent the recruitment of children by armed groups.

*e. Acceptable Conditions of Work.*—The government establishes a uniform minimum wage every January that serves as a benchmark for wage bargaining. The monthly minimum wage, which is negotiated by a committee of representatives of business, organized labor, and the government, was approximately 496,900 pesos (\$250), a 7.6 percent increase from the previous year. If the negotiation process fails to reach agreement, as has occurred frequently in the past, the president can set the minimum wage unilaterally. The national minimum wage did not provide sufficient income to purchase the basic market basket of goods for a family of four. Furthermore, it was impossible to enforce the minimum wage in the informal sector.

The labor code provides for a regular workweek of 48 hours and a minimum rest period of eight hours within the week. The code stipulates that workers are entitled to receive premium compensation for additional hours worked over the regular workweek of 48 hours and for work performed on Sundays. Compulsory overtime is permitted only in exceptional cases where the work is considered essential for the company's functioning.

The law provides comprehensive protection for workers' occupational safety and health, which the MSP enforced through periodic inspections. However, a scarcity of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions. Moreover, workers in the informal sector sometimes suffered physical or sexual abuse. The law provides workers with the right to leave a hazardous work situation without jeopardizing continued employment, and the government enforced this right. Nonunion workers, particularly those in the agricultural and in some parts of the flower sector, reportedly worked under hazardous conditions because they feared losing their jobs if they criticized abuses. The Colombian Flower Industry Association (ASOCOLFLORES) continued to implement voluntary principles on environmental and worker safety practices and reduce the use of pesticides. Nevertheless, problems remained unaffiliated to ASOCOLFLORES.

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## COSTA RICA

Costa Rica, a constitutional democracy with a population of approximately 4.5 million, is governed by a president and the unicameral Legislative Assembly, whose members are directly elected in multiparty elections every four years. In 2006 Oscar Arias Sanchez of the National Liberation Party (PLN) won the presidency in elections that were generally considered free and fair. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, the following human rights problems were reported: substantial judicial process delays, particularly in pretrial detention and civil, criminal, and labor cases; excessive penalties for violations of libel laws; domestic violence against women and children; child prostitution; trafficking in persons; and child labor.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings. However, on May 25, authorities detained one officer and one former officer of the police intervention unit (UIP) as suspects in two killings, one of which occurred in 2006 and the other in 2007.

There were no developments in the 2008 case of two officers from the uniformed police who allegedly assisted in killing two persons. Authorities administratively suspended the two officers from their jobs without pay while in preventive detention, and the case remained pending at year's end.

A judicial investigation in the case of a police officer involved in the 2007 shooting death of robbery suspect continued at year's end. The officer was dismissed from duty in September 2008.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution prohibits such practices and the government generally respected this prohibition, some members of the security forces committed abuses. Any statement obtained through violence is invalid, and the government investigated, prosecuted, and punished agents responsible for confirmed cases of abuse.

On February 25 and July 25, there were two separate complaints against Judicial Investigative Police (OIJ) agents for abuse of authority. In the first incident, the agents used excessive force when they detained a student who had not obeyed an order to stop. In the second case, two OIJ agents stopped a car at gunpoint without identifying themselves, leading the occupants to believe it was an attempted carjacking.

During the year the Ombudsman's Office recorded 48 complaints of police abuse; at year's end 18 complaints remained under investigation and 30 had been resolved. The ombudsman conducts investigations as a preliminary step, with any recommendation for action forwarded to the respective agency for investigation or follow-up.



*Prison and Detention Center Conditions.*—Although the government continued to improve prison conditions during the year, overcrowding, poor sanitation, lack of health services, and violence among prisoners remained problems in some prison facilities. The Ombudsman's Office investigated all complaints and referred serious cases of abuse to the public prosecutor. Illegal narcotics were readily available in the prisons and drug abuse was common.

The country's prison population sharply increased during the year due to new legislation and expedited court procedures. As a result, the Justice Ministry's Social Adaptation Division on October 30 reported a total prison population of 16,368 and indicated that on average prison populations exceeded designed capacity by 3 to 4 percent.

The San Sebastian, San Carlos, Cartago, Liberia, Perez Zeledon, and Puntarenas prisons remained overcrowded, with the population in pretrial detention experiencing the most overcrowding. In San Sebastian, where most prisoners in pretrial detention were held, 629 prisoners lived in an unsanitary facility with a capacity of 588. To mitigate these conditions, some pretrial detainees were held with convicted prisoners in long-term detention facilities throughout the country.

Medical care at most facilities was generally adequate for routine illnesses and injuries; starting in August there was a doctor on duty at all prisons. However, prisoners were referred to the social service system for complex medical issues, such as HIV/AIDS, with consequent treatment delays.

Prisoners generally were separated by gender and level of security (minimum, medium, and maximum), but overcrowding sometimes prevented proper security-level separation.

The government permitted independent monitoring of prison conditions by international and local human rights observers, including representatives from the Ombudsman's Office. Human rights observers were allowed to speak to prisoners and prison employees in confidence and without the presence of prison staff or other third parties.

In February two newly constructed prison units with a capacity for 384 inmates went into service, thus lessening overcrowding.

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

*Role of the Police and Security Apparatus.*—The country has no military. Thirteen agencies have law enforcement components, including the OIJ (under the Justice Ministry). The Ministry of Public Security is responsible for the uniformed police force, the drug control police, the border police, and the coast guard. The Ministry of Public Works and Transportation operates the traffic police. The police force's effectiveness was hampered by inadequate funding, equipment, training, and lack of police professionalism.

The government has mechanisms in place to investigate and punish abuse and corruption; however, court backlogs and an antiquated legal system greatly slowed such action. Citizens may report abuse of authority or police corruption through various accessible mechanisms. Officers are entitled to a disciplinary investigation, oral hearing, and board review in administrative cases. For criminal charges, cases go to the judicial branch. There were no reports of impunity involving the security forces during the year.

The Legal/Disciplinary Department of the Ministry of Public Security has primary responsibility for investigating complaints of police abuse. In 2008 the Legal/Disciplinary Department opened 194 files of investigation on possible police abuses (of all types). As of July 17, 99 of those cases had been resolved and 95 were pending. As of July 17, the Legal/Disciplinary Department opened 84 cases of police abuse; 15 were resolved and 69 remained pending. The majority of complaints related to corruption, domestic abuse, use of illegal drugs, falsification of documents, and misuse of official vehicles (such as transporting family members or friends). In the 18-month period ending in June, authorities dismissed more than 100 uniformed police as a result of these activities.

*Arrest Procedures and Treatment While in Detention.*—The law requires issuance of judicial warrants before making arrests, except where probable cause is evident to the arresting officer. The law entitles a detainee to a judicial determination of the legality of detention during arraignment before a judge within 24 hours of arrest. The law provides for the right to bail and prompt access to an attorney and to family members, and authorities generally observed these rights in practice. Indigents are provided a public attorney at government expense; in practice even those with sufficient personal funds were able to use the services of a public defender. With judicial authorization, the authorities may hold suspects incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days.

A criminal court may hold suspects in pretrial detention for periods of up to one year, and the Court of Appeals may extend this period to two years in especially complex cases. The law requires that cases of suspects in pretrial detention be reviewed every three months by the court to determine the appropriateness of continued detention. On July 22, President Arias signed a law against organized crime. Under this new law, if a judge declares a case to be related to organized crime, special procedural rules apply, extending the maximum period of preventive detention from 12 months to 24 months, with the statute of limitations being 10 years from the date of the last crime.

According to the Ministry of Justice, as of October 30, there were 2,628 persons in pretrial detention, constituting approximately 16 percent of the prison population.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. The legal system faced many challenges, including significant delays in the adjudication of civil disputes and a growing workload. In 2008 there were 176,000 criminal complaints registered with the judicial branch, of which only 7,600 were brought to trial, with a conviction rate of 50 percent.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

All trials, except those that include juvenile defendants, are public. There are no jury trials. A trial is presided over by a single judge or by a three-judge panel, depending on the potential penalties arising from the charges. Trials that involve victims or witnesses who are minors are closed during that portion of the trial where the minor is called to testify. Accused persons can select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent. The law provides for detainee and attorney access to government-held evidence, and during trials defendants can question witnesses against them and present witnesses on their behalf. Defendants enjoy a presumption of innocence and, if convicted, have the right of appeal. The law extends these rights to citizens and noncitizens alike.

Authorities continued to expand the use of fast-track courts in the provinces to speed up prosecution of criminal cases in which an individual is arrested while committing the crime. The first such court began function in the Second Circuit of San Jose in October 2008.

On July 9, the Inter-American Court of Human Rights ruled that reforms to the judicial appeals system did not comply with the Inter-American Convention on Human Rights. This clarified a 2004 Inter-American Court ruling that required the government to reform its appeals system. On October 15, the government submitted a compliance report on the actions taken to adhere to the judgment.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary that presides over lawsuits in civil matters, including human rights violations. Administrative and judicial remedies for alleged wrongs are available.

*Property Restitution.*—The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Property rights were irregularly enforced and duplicate registrations occurred. More than 500 cases of purported title fraud involving 30 public notaries remained under investigation at year's end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such practices, and the government generally respected these prohibitions in practice. The law requires judicial warrants to search private homes. Judges may approve the use of wiretaps in investigations of certain crimes, but legal guidelines are so restrictive that the use of wiretaps was rare. The new law against organized crime, enacted on July 22, reformed the electronic surveillance procedures by mandating the creation of a communications investigation center under the judicial branch to run all wiretapping. The center was under construction at year's end.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. The independent media were active and expressed a wide variety of views without restriction.

Journalists and media company owners continued to criticize legislation that imposes criminal penalties, including lengthy jail sentences instead of civil fines, for common press infractions and argued that such legislation promoted self-censorship.

The law does not require reporters to reveal the identity of a source in any civil or criminal trial if the source has requested confidentiality. Reporters may defend

themselves against libel charges by claiming that they were merely repeating a story published by foreign media. Libel convictions are punishable with fines or jail time.

The law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Media managers considered that it was difficult to comply with provisions of the law, which include a series of “insult laws” establishing criminal penalties of up to three 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.

On February 19, the Supreme Elections Tribunal (TSE) issued a resolution that applies political campaign rules to Internet advertising, specifically relating to legal campaign periods. Under the provision, candidates may actively campaign via the Internet only in the two months prior to their party primaries; this conforms to regulations placed on traditional campaign media.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that there were 32 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

The Commission on Control and Rating of Public Performances rates films and has the authority to restrict or prohibit the showing of films deemed pornographic or violent in nature or likely to incite crime or vice. The commission has similar powers over television and radio programs and stage plays. In addition the commission regulates the sale and distribution of written material deemed pornographic, enforcing specific packaging and display regulations. A tribunal reviews appeals of the commission’s actions.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the government generally respected this right in practice. The constitution establishes Roman Catholicism as the state religion and requires that the state contribute to its maintenance.

Besides notaries public, only officials of the Catholic Church may perform marriages that are automatically recognized by the state. Other religious groups can perform wedding ceremonies, but the marriage must be legalized by a civil union, or couples may choose only a civil union.

Religious groups must be accredited with the Ministry of Foreign Affairs and Religion to be eligible for temporary residency for their foreign missionaries and employees and to petition for legal recognition of religious holidays.

Religious organizations must submit applications to the local municipality to establish a place of worship and must comply with safety and noise regulations established by law. A 2007 executive order granted a two-year grace period for existing facilities to comply with the ruling. In July the Evangelical Alliance Federation requested a one-year extension from the Ministry of Health because only 25 percent of churches complied with the regulations; the Ministry of Health granted the extension via executive order. The Evangelical Alliance Federation reported that the government continued to close some non-Catholic churches for noise and other code violations, although other non-Catholic leaders did not complain of church closings.

*Societal Abuses and Discrimination.*—There were a few minor reports of societal abuses or discrimination based on religious affiliation, belief, or practice, including some cases of anti-Semitic verbal abuse in public and occasional instances of anti-Semitic graffiti during the year. There were an estimated 3,000 Jews in the country according to the Jewish Zionist Center.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law requires that adults carry national identification cards at all times. Persons who fail to produce such documents at security checkpoints may be detained until their identity and immigration status are verified.

The constitution prohibits forced internal or external exile, and it was not used.

*Protection of Refugees.*—The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and its laws provide for the granting of asylum or refugee status. The government has established a system for providing protection to refugees, and it granted refugee status or asylum. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The General Directorate of Immigration is in charge of refugee status determination. The law requires claims to be adjudicated within three months of receipt; however, in practice decisions took from six to eight months, and as of August there were 80 cases on appeal. Applicants cannot work legally until the Directorate approves their cases.

According to the UNHCR, there were approximately 11,900 recognized refugees in the country at year's end, the majority from Colombia, as well as 300 asylum seekers. The General Directorate of Immigration reported 8,527 refugees as of June 30. (The difference can be attributed to the fact that once refugees obtain permanent residency in the country, the General Directorate no longer counts them as refugees.) There were also 5,500 "persons of concern" in need of international protection.

The General Directorate of Immigration reported that 262 of 614 asylum requests, or 42 percent, were approved during the first six months of the year.

The UNHCR worked to counter the incorrect perception of Colombian refugees as narcotics traffickers, criminals, or members of the Revolutionary Armed Forces of Colombia. The UNHCR launched two awareness campaigns, both worldwide and on the local level; one was the "Einstein was a refugee" campaign and the other was for World Refugee Day on June 20.

The government provides medical assistance (through the social security system) and other benefits to refugees.

On August 19, President Arias signed a new immigration law, to take effect in February 2010, that creates a separate office within the General Directorate of Immigration to deal specifically with refugee issues. The law also clarifies and strengthens the application appeal process and removes or lowers some of the financial costs involved with the refugee application process.

*Stateless Persons.*—There were occasional problems of statelessness in the border areas with Panama and Nicaragua. Members of the Ngobe-Bugle indigenous group from Panama came to work on Costa Rican plantations, and sometimes their children were born in rudimentary structures on the plantations. In these cases the children were not registered as Costa Rican citizens because the families did not think it necessary to register the births, but when the families returned to Panama, the children were not registered there either. A similar problem occurred with Nicaraguan families that migrated to work on coffee plantations. The government attempted to advise the migrant population to register at birth all children born in the country.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage and by secret ballot every four years. The independent Supreme Electoral Tribunal ensured the integrity of elections, and the authorities and citizens respected election results. Presidents may seek reelection after sitting out two subsequent four-year terms, and assembly members may seek reelection after at least one term out of office. Political parties operated without restriction or outside interference.

*Elections and Political Participation.*—In the 2006 national elections, Oscar Arias of the PLN won the presidency in elections that generally were considered free and fair. On August 19, President Arias signed a law to reform the Electoral Code, which will be implemented in the 2010 national elections. The new law prohibits campaign donations from corporations and reduces the amount of state campaign financing of political parties. The law also requires that, starting in 2014, 50 percent of Legislative Assembly candidates on party lists be female.

The TSE requires that a minimum of 40 percent of candidates for elective office be female and that women's names be placed accordingly on the ballots by party slate. The first vice president (who was also the minister of justice) and the min-

isters of government, police and public security, science and technology, health, and culture were women; the first vice president resigned in October 2008 to run for president. There were 20 women in the 57-seat Legislative Assembly, including nine legislative committee chairwomen.

Indigenous persons did not play significant roles in politics or government except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. There were no indigenous members in the Legislative Assembly or the cabinet. There was one black member in the Legislative Assembly but none in the cabinet.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively; however, the World Bank's worldwide governance indicators reflected that government corruption was a problem, and there were isolated reports of such corruption during the year.

Public officials are subject to a law against corruption and illicit enrichment in the public service. This law requires senior officials to submit sworn declarations of income, assets, and liabilities. The public ethics prosecutor, the comptroller general, the attorney general, and the ombudsman are all responsible for combating government corruption. The main function of the public ethics prosecutor is to take the administrative steps necessary to prevent, detect, and eradicate corruption and to raise ethical and transparency standards in the public service.

The judicial investigation continued in the August 2008 case of the housing minister who resigned following controversy over using a foreign donation to pay fees to various government consultants and to purchase equipment. In March the minister of the environment resigned after allegations that he preferentially awarded government bids to a corporation that had connections with his family. The Office of the Public Ethics Prosecutor presented a report on this case with recommendations; the judicial investigation continued.

Previous investigations of two former presidents, Rafael Angel Calderon and Miguel Angel Rodriguez, resulted in indictments for separate and unrelated earlier cases of corruption. On October 5, a court sentenced Calderon to five years in prison on corruption charges and ordered him to pay restitution of the embezzled funds, but it did not prohibit him from holding office. A trial of the Rodriguez case remained pending at year's end.

The law provides for public access to government information, and the government generally respected this right. Government institutions published reports that detailed the year's activities. The Ombudsman's Office operated a Web page dedicated to enhancing transparency by improving citizens' access to public information.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

The Ombudsman's Office has six regional offices and more than 150 staff to oversee government action or inaction that affects citizens' rights and interests. The ombudsman is accountable to the Legislative Assembly, which appoints him or her to a four-year term and funds office operations. The ombudsman participates in the drafting and approval of legislation, promotes good administration and transparency, and reports annually to the Legislative Assembly with nonbinding recommendations. The position carried a strong moral and symbolic weight in the country.

A special committee at the Legislative Assembly studies and reports on issues relating to the violation of human rights and reviews bills relating to human rights and international humanitarian law; it also follows up on recommendations from the Ombudsman's Office.

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

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these prohibitions effectively.

*Women.*—The law criminalizes rape and provides penalties from 10 to 18 years in prison for rape. The length of the sentence depends on the victim's age and other factors, such as the assailant's use of violence or position of influence over the victim. The judiciary effectively enforced the rape law and provided due process for both victim and defendant. According to the autonomous National Institute for

Women (INAMU), the rape law applies to spousal rape, although spousal rape cases in practice were much more difficult to prove.

Authorities acknowledged that many known rape cases were not investigated due to reluctance by the victim or family of the victim to press charges against the perpetrator. According to the judicial branch's statistics office, courts tried 356 cases for rape or attempted rape in 2008 and sentenced 158 defendants.

The government continued to identify domestic violence against women and children as a serious and growing societal problem. The law prohibits domestic violence and provides measures for the protection of domestic violence victims. Criminal penalties range from 10 to 100 days in prison for aggravated threats and up to 35 years in prison for aggravated homicide, including a sentence of 20 to 35 years for men who kill their partners. If the offender has no violent criminal record and the sentence received is less than three years' imprisonment, the law also provides for alternative sanctions, such as weekend detentions, and assistance including referrals for social services. Protection from minor injuries continues under the criminal code.

INAMU reported that 35 women and girls died from domestic violence through the first 11 months of the year, compared with 38 such deaths in all of 2008. INAMU maintained a domestic abuse hotline connected to the 911 emergency system and provided counseling to 6,002 women as of October 31. According to the judicial branch's statistics office, in 2008 authorities opened 14,707 cases of domestic violence throughout the country, compared with 5,145 cases in 2007; in 2008 a total of 53 cases were tried and 18 persons were sentenced for crimes of violence against women.

The public prosecutor, police, and ombudsman have offices dedicated to domestic violence problems.

Prostitution is legal for persons age 18 and above and was practiced openly throughout the country, particularly in areas with heavy concentrations of foreign tourists. The penal code prohibits individuals from promoting or facilitating the prostitution of persons of either sex, regardless of the person's age, and the penalty increases if the victim is younger than 18. There are no specific laws against sex tourism, which was growing; however, law enforcement agencies initiated investigations under existing legislation. The government and several advocacy groups also continued awareness campaigns publicizing the dangers of sex tourism and its association with child sexual exploitation.

The law prohibits sexual harassment in the workplace and educational institutions, and the Ministry of Labor and Social Security generally enforced this prohibition. The law imposes penalties ranging from a letter of reprimand to dismissal, with more serious incidents subject to criminal prosecution. The Ombudsman's Office received 92 complaints of sexual harassment in the workplace during the year.

Individuals have the right to obtain information and access to safe methods of contraception from public hospitals and medical attention centers, as well as the right to receive medical care during pregnancy and childbirth. The public health care system plays a major role in how women may access contraception, including access to sterilization. In public as well as private health care, the right to obtain and use contraceptives extends to all members of the population. Approximately 94 percent of women had skilled attendance during childbirth in the public healthcare system.

The law prohibits discrimination against women and obligates the government to promote political, economic, social, and cultural equality. The government maintained offices for gender issues in most ministries and parastatal organizations. The Labor Ministry was responsible for investigating allegations of gender discrimination. INAMU implemented programs that promoted gender equality and publicized the rights of women.

In 2008 the Census Institute (INEC) reported that women represented 41.7 percent of the labor force. Approximately 4.2 percent worked in agriculture, 13.1 percent in manufacturing, and 82.7 percent in the service sector. Women occupied 43.5 percent of professional and technical positions and 30.4 percent of high-level managerial/executive positions. The law requires that women and men receive equal pay for equal work; however, a UN Development Program report estimated that earned income for women was approximately 53 percent of earned income for men, while INEC estimated that earnings for women were 85 percent those for men. These discrepancies reflected, in part, the fact that most women's jobs were in traditionally lower-paid sectors (domestic and clerical rather than professional or industrial).

*Children.*—Citizenship is derived by birth within the country's territory or from either of one's parents.

Abuse of children remained a problem. For 2008 the judicial branch's statistics office reported 692 cases of sexual abuse of minors, with 337 perpetrators convicted. Additionally, 10 cases involved sex with minors, seven involved cases of sex with

minors with payment involved, and seven involved the sexual corruption of minors. From January 1 to June 30, the autonomous National Institute for Children (PANI) assisted 2,145 children and adolescents, including 1,410 cases of physical abuse and 409 cases of intrafamily sexual abuse. Traditional attitudes and the inclination to treat sexual and psychological abuse as misdemeanors occasionally hampered legal proceedings against those who committed crimes against children.

The government, security officials, and child advocacy organizations acknowledged that commercial sexual exploitation of children remained a serious problem. PANI estimated that a significant number of children suffered from commercial sexual exploitation. Street children in the urban areas of San Jose, Limon, and Puntarenas were particularly at risk. During the first six months of the year, PANI reported that it provided assistance to minors in 51 separate cases of commercial sexual exploitation. The law against commercial sexual exploitation includes sanctions for possession of child pornography, greater protection of children younger than 14 years, and an extended statute of limitations for child abuse. In addition PANI continued programs of comprehensive care for children and adolescents at risk and in vulnerable situations, combined with a program to help adolescent mothers return to school. The government identified child sexual tourism as a serious problem.

The National Commission to Combat Commercial Sexual Exploitation of Children and Adolescents (CONACOES), as well as nongovernmental organizations (NGOs), implemented a prevention and attention pilot plan in six communities. CONACOES also reported that 19 local information campaigns took place during the year. CONACOES, the Chamber of Tourism, and the Board of Tourism worked to commit travel agencies and tour operators to sign a code of ethics for the protection of children and adolescents against commercial sexual exploitation, as a requirement for a program of certification for sustainable tourism.

The minimum age of consensual sex is 18 years. The law provides for sanctions from two to 10 years in prison for statutory rape.

There were occasional problems encountered in the registration at birth of children born of migrant parents (see section 2.d.).

*Trafficking in Persons.*—The law prohibits transnational human trafficking for purposes of prostitution or forced labor, including of minors, and criminalizes internal trafficking of children, adolescents, and adults. In February the Legislative Assembly passed a law that criminalizes all forms of trafficking in persons and closes a statutory gap relating to the internal trafficking of adults. In August the Legislative Assembly passed an immigration reform law, which establishes a separate migratory status for trafficking victims. There were reports that persons, particularly women and minors, were trafficked to, from, and within the country, most often for commercial sexual exploitation.

Victims were trafficked to the country from Nicaragua, the Dominican Republic, Colombia, Guatemala, China, Russia, and Ukraine. While evidence suggested that most trafficked persons remained in the country, according to a judicial source, there was evidence that Dominican and Colombian women were trafficked through the country en route to the United States, Guatemala, and Europe. Costa Rican women were trafficked to Mexico, Canada, and Japan. Women and children were trafficked within the country for sexual exploitation; men, women, and children also were trafficked within the country for forced labor as domestic servants, agricultural workers, and workers in the fishing industry. Traffickers often lured victims, generally from impoverished backgrounds, with a promise of secure employment and good pay.

The Victim and Witness Protection Law, which went into effect on April 22, establishes a penalty of six to 10 years in prison for the movement of persons for the purposes of prostitution, sexual or labor servitude, slavery, forced work or services, servile marriage, begging, or other prohibited purposes. Punishment can increase to eight to 16 years in prison under aggravating circumstances, such as cases involving minors (anyone under age 18) or the use of deception, violence, intimidation, or coercion. The criminal code provides sentences of between two and 10 years' imprisonment for anyone who engages in remunerated sex with a minor, between four and 10 years' imprisonment for managing or promoting child prostitution, and between two and 10 years' imprisonment for the sale of minors or trafficking in human organs.

At year's end there were seven active investigations of potential trafficking open in the OIJ Trafficking Unit. During the year the OIJ opened 11 investigations and forwarded two of them to the Prosecutor's Office, and two persons were arrested. In April authorities arrested one government official involved with a child-trafficking ring based in China, which was attempting to bring up to 300 Chinese children into the country.

While there were limited formal mechanisms specifically designed to aid trafficking victims, PANI provided temporary shelter services to minors that included integrated wellness and education programs. Through INAMU the government provided emergency medical care, shelter, and legal and psychological assistance to adult victims. The Victim's Assistance Office within the Prosecutor's Office reported providing assistance to victims of trafficking. The Witness Protection Law provides new protections to victims, including the creation of a witness protection program, and increased financial resources for the Victim's Assistance Office.

Government agencies responsible for combating trafficking and child sexual exploitation include the special prosecutor on domestic violence and sex crimes, the Victim's Attention Office, PANI, INAMU, the Foreign Ministry, the Labor and Social Security Ministry, the Public Security Ministry, the Tourism Ministry, the General Directorate of Immigration, and the OIJ.

The government acknowledged the serious nature of the problem of trafficking in persons, especially the commercial sexual exploitation of minors. Awareness campaigns against child sex tourism continued, as did television and radio announcements and billboard notices designed to warn young women of the dangers of commercial sexual exploitation. The government had a national hotline for potential victims to receive information about trafficking and referred cases to PANI or INAMU. The antitrafficking media campaign, launched in October 2008 by the government's National Coalition against Trafficking and PANI in collaboration with the UN Children's Fund (UNICEF), continued during the year.

The government continued to effectively implement the 2008-10 National Plan of Action against Commercial Sexual Exploitation of Minors, which incorporates recommendations by the UN Committee on the Rights of the Child.

The National Coalition against Trafficking, headed by the minister of public security and composed of governmental institutions and NGO observers, developed a protocol for immediate victim assistance; provided antitrafficking training to immigration police, community police, labor inspectors, and OIJ agents; promoted prevention practices for educational institutions and associations of community development; and created an immediate response team for victim assistance composed of representatives from government institutions responsible for combating trafficking.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with physical and mental disabilities in employment, education, health care access, or provision of other state services, and there were no reports of such practices in education or in the provision of other state services. However, the Ombudsman's Office reported that, due to poor facility access and entrenched business practices, employment discrimination occurred.

Although a 1996 law mandates access to buildings for persons with disabilities and established a 10-year deadline to make necessary installations and upgrades, the government did not enforce this provision in practice, and many buildings remained inaccessible to persons with disabilities. The Supreme Court's Constitutional Chamber ruled in favor of the right of persons with disabilities to gain access to state-owned or private facilities open to the public. Public transportation services improved access slightly for persons using wheelchairs. During the year the Ombudsman's Office received and investigated 46 complaints about violations of the law that protects equal opportunities for persons with disabilities.

The Ministry of Education continued to operate a program for persons with disabilities, including a national resource center that provided parents, students, and teachers with advanced counseling, training, and information services. There were 24 special education centers exclusively to assist special education students and those with disabilities, two more inside state hospitals, and an additional institute for the blind. In addition, 1,987 schools had programs to provide some support to students with disabilities, and the ministry provided special education to 14,815 students who registered in March.

The National Council on Disability is the body responsible for protecting the rights of persons with disabilities and for coordinating all organizations working on disabilities issues.

*National/Racial/Ethnic Minorities.*—According to the 2000 census, the country's population included 72,784 blacks, who resided primarily in the province of Limon. During the year there were no reports to the Ombudsman's Office of racial discrimination against blacks. Approximately 6 percent of the resident black population was foreign born.

There were sporadic reports of discrimination, including labor discrimination, usually directed against Nicaraguans.



Undocumented immigrants received medical care, including prenatal and maternity care, at public health centers. However, they sometimes were denied discretionary or long-term medical care because they were not participants in the national health care insurance program.

*Indigenous People.*—The 2000 census recorded 63,876 indigenous persons from eight ethnic groups, accounting for 1.7 percent of the population. While indigenous persons were not subject to official discrimination, social and health network gaps diminished their quality of life. The indigenous population's complaints generally referred to their inability to fulfill basic needs such as housing, health, and education, which the Ombudsman's Office attributed to inadequate social development efforts. The National Commission on Indigenous Affairs is a semiautonomous institution responsible for promoting the development of indigenous populations, respecting their organizations, and protecting their cultural identity.

Seventy-three percent of the indigenous population lived in traditional communities on 24 reserves, most in remote locations, which often lacked access to schools, health care, electricity, and potable water. The Housing Ministry estimated that only 27 percent of the indigenous population lived in dwellings considered to be in good condition, mainly due to reluctance to move from huts into more modern housing. Few government health-care facilities were established in indigenous reserves. The law nominally protects reserve land as the collective, nontransferable property of the indigenous communities. Some indigenous landowners, however, illegally sold their land to nonindigenous persons to pay off debts. The unit of the Ombudsman's Office dedicated to investigating violations of the rights of indigenous persons sought to return reserve land to indigenous groups. During the year the Ombudsman's Office received 12 complaints of discrimination against indigenous people, including problems related to documentation, community development, and the right to be consulted about national legislation that might affect indigenous life, territories, or culture.

At year's end, nonindigenous property owners continued to hold title to land on approximately 39 percent of the reserves legally set aside for indigenous ownership. The law requires that the government purchase all preexisting land titles within the reserves in order to secure exclusive use and ownership rights for indigenous populations.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws prohibiting discrimination against persons based on sexual orientation. There were isolated cases of discrimination against persons based on sexual orientation.

An NGO that focused on gay, lesbian, bisexual, and transgender (LGBT) rights and health issues complained that, due to the difficulty in proving labor discrimination based on sexual orientation, victims often failed to report such discrimination. The NGO received through a call center 2,332 inquiries or complaints from January to September 2008 when it lost funding from its sponsoring international institution for its call-center operations. The same NGO conducted an HIV/AIDS prevalence study from February to April, which determined that 10 percent of gay men in the country were infected with HIV/AIDS. This NGO also published a nondiscrimination manual with best practice guidelines for the educational system. Other LGBT organizations operated freely and lobbied for legal reforms recognizing same-sex unions.

During the year the Ombudsman's Office reported receiving three complaints of discrimination based on sexual orientation, all of which were resolved. On May 27, the Supreme Court's Constitutional Chamber upheld the constitutionality of the provision on common-law marriage and the definition of common-law partner of the family code, which limits the term to opposite-sex partners.

*Other Societal Discrimination.*—The law and a presidential decree prohibit discrimination based on HIV/AIDS in health care, employment, and education. During the year the Ombudsman's Office reported receiving 30 complaints of discrimination against patients with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without prior authorization. Workers exercised this right in practice; however, restrictions on the minimum number of employees (12) needed to form a union may have hampered freedom of association in small enterprises. The law permits foreign workers to join unions but prohibits them from holding positions of authority within the unions. In August the Ministry of Labor and Social Security reported that approximately 9 percent of workers were unionized in 292 active unions, a decline from the percentage reported in 2008 attributable to the ministry's updating of its statistical records.

Due to complex filing procedures and the lack of oral hearing procedures, labor grievances continued to move extremely slowly in the courts. The International Labor Organization (ILO) and unions reported that antiunion activity cases took several years to reach judgment. For example, the FERTICA fertilizer workers' union case involving illegal terminations of union leaders and members has not been resolved after almost 10 years. In May 2008 the Inter-American Commission on Human Rights heard this case, including government commitments to resolve it, but there has been no visible progress. At year's end the case reportedly remained in the fact-finding phase to determine whether there were human rights violations.

Government mediation centers, designed to resolve conflicts without having to hire a lawyer and to alleviate overcrowded court dockets, addressed some labor disputes. During the first six months of the year, the Labor Ministry's Center for Alternative Resolution of Conflicts handled 1,408 cases, of which 72.6 percent resulted in an agreement between the parties. During the first six months of the year, the Labor Ministry's Labor Affairs Directorate provided individual mediation assistance and handled 526 hearings, which resulted in 367 mediation agreements. A mediation center in the judicial branch to promote dispute resolution, which was approved by the Supreme Court in March 2008, was not functioning due to a lack of mediators. Trade unionists stated that workers were disadvantaged in mediation forums, because they did not have legal counsel and lacked power in relations with employers. Unions asserted that employer positions in these proceedings were essentially imposed on workers.

The law provides for the right to strike and workers exercised this right in practice; however, the law requires that at least 60 percent of the workers in an enterprise support strike action. This requirement was considered excessive by ILO standards.

Restrictions on the right to strike apply only to those services designated as essential services by the government, including those that concern the national economy or public health; however, the ILO noted that this also includes sectors, such as oil refineries and ports, that were not considered essential under international standards. Unions argued that the government's broad definition of "essential services" denied many workers the right to strike.

*b. The Right to Organize and Bargain Collectively.*—The constitution protects the right of workers to organize and bargain collectively; however, there were barriers to exercising these rights in practice. The Labor Ministry reported in 2007 that 8.3 percent of the workforce was covered by collective bargaining agreements. Unions perceived a pattern of employers firing employees who wanted to unionize. The Ministry of Labor reported 16 complaints of antiunion discrimination during the year. Although public sector employees were permitted to bargain collectively, a 2006 decision of the Constitutional Chamber of the Supreme Court held that some fringe benefits received by certain public employees were disproportionate and unreasonable and repealed sections of collective bargaining agreements between public sector unions and government agencies.

The law requires employers to initiate the bargaining process with a trade union if at least 34 percent of the workforce requests collective bargaining. The government enforced this law in practice.

Although private-sector unions have the legal right to engage in collective bargaining with employers, "direct bargaining arrangements" between employers and nonunionized workers occurred more commonly. In a 2008 study, the ILO concluded that such direct bargaining agreements disadvantaged workers because they did not result from balanced negotiations of two independent, adequately equipped parties. The Ministry of Labor reported 68 direct agreements during the year.

The law permits the formation of "solidarity associations," which often were organized by employers. The law prohibits such associations from representing workers in collective bargaining negotiations or in any other way that assumes the functions or inhibits the formation of trade unions; however, labor unions asserted that solidarity associations conducted negotiations and that in some cases employers required membership in a solidarity association as a condition for employment.

Trade union leaders contended that the existence of worker solidarity associations in many enterprises displaced unions and discouraged collective bargaining. Under solidarity associations both employers and employees directly contribute to the financing of the association. According to the ILO, such associations, to the extent that they displaced trade unions, discouraged collective bargaining, affected the independence of workers' organizations from employers' influence, and contravened ILO Convention 98 on the right to organize and bargain collectively. As of August solidarity associations had approximately 246,000 members, representing 12.5 percent of workers; 95 percent of these workers were in the private sector.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs). Labor unions alleged, however, that efforts of EPZ workers to organize were met by illegal terminations of activists, threats, and intimidation. Unions also claimed that employers in the zones maintained blacklists of workers identified as activists. Unions reported systematic violations of labor rights and provisions concerning working conditions, overtime, and wages in the EPZs. The ILO, confirming it found no trade unions operating in the country's EPZs, also identified the zones as a hostile environment for organizing.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred.

The National Coalition against Trafficking identified and studied two possible cases of trafficking in persons for the purpose of forced labor (in the service sector) during the year. The coalition identified these cases as labor exploitation and referred them to the Ministry of Labor. The coalition also organized a working group to provide training to labor inspectors from the Ministry of Labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides special occupational protection for minors and establishes a minimum working age of 15 years. Adolescents between the ages of 15 and 18 may work for a maximum of six hours daily and 36 hours weekly. The law prohibits night work and overtime for minors. Activities considered to be unhealthy or hazardous typically require a minimum age of 18. Working minors are entitled to attend educational establishments through flexible programs adapted to their interests and employment conditions and to participate in apprenticeship training programs.

According to the ILO, working minors ages 15 to 18 sometimes received less than the minimum wage, which was corroborated by the chief of the Labor Ministry's Office for the Eradication of Child Labor (OATIA).

The Labor Ministry, in cooperation with PANI, generally enforced these regulations effectively through inspections in the formal sector; the regulations were not enforced effectively in the informal labor sector as a result of inadequate resources. From January to June, PANI received 58 complaints of child labor exploitation.

Child labor was a problem mainly in the informal economy, including in agriculture, fishing, construction, and service sectors of the economy. Child labor also was used in production on family farms and small third-party farms, specifically in the production of oranges, sugarcane, and melons.

Child labor was also a problem among the indigenous population, including migrant populations. For example, children of the Ngobe-Bugle group migrated with their parents from Panama for seasonal work and participated in the harvest, even though the government offered schooling to children of migrants.

The Ministry of Labor is responsible for enforcing child labor laws and policies; the OATIA is responsible for coordinating government efforts targeted at child labor. Resource limitations constrained government efforts to enforce child labor laws. In coordination with public and private institutions, the OATIA provided technical assistance for vocational training programs to teenagers who previously worked in dangerous jobs in the Caribbean and northern regions of the country. The OATIA continued conducting four projects aimed at improving the life and work conditions of adolescent workers and eradicating child labor. The government, in conjunction with international donors, participated in regional initiatives to combat child labor. This included the ILO's International Program on the Elimination of Child Labor eight-year regional project to combat commercial sexual exploitation of children, which ended in April.

*e. Acceptable Conditions of Work.*—The law provides for a minimum wage set by the National Wage Council and updated annually. Monthly minimum wages for the private sector ranged from 118,000 colones (\$203) for household workers to 434,000 colones (\$748) for university graduates. The Labor Ministry effectively enforced minimum wages in the San Jose area but generally was not effective in enforcing the wage law in rural areas, particularly where large numbers of migrants were employed. The national minimum wage, which also covers migrant workers, did not provide a decent standard of living for a worker and family.

The constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Workers generally may work a maximum of 48 hours weekly. Although there is no statutory prohibition against compulsory overtime, the labor code stipulates that the workday may not exceed 12 hours. Nonagricultural workers must receive an overtime premium of 50 percent of regular wages for work in excess of the daily shift. However, agricultural workers did not receive overtime pay if they worked voluntarily beyond their normal hours. Hourly work regulations were enforced generally in the formal labor market in San Jose, but poorly in rural areas and in the informal sector.

Labor unions reported that overtime pay violations, such as nonpayment, and mandatory overtime were common in the private sector and particularly in EPZ industries. Unions asserted that overtime was required to preserve employment, that there were violations of premium payment requirements for overtime work, and, in some cases, that workers did not receive payment for some of their required overtime work.

While the labor and health ministries shared responsibility for drafting and enforcing occupational health and safety standards, they did not enforce these standards effectively. The law 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 fine employers for violations. Most firms established such committees but did not use them effectively.

Although resource constraints continued to hinder the Labor Ministry Inspection Directorate's ability to carry out its inspection mandate, there were 7,915 inspections conducted in the first half of the year, compared with 8,651 inspections in all of 2008. Workers who consider a work condition to be unhealthy or unsafe must make a written request for protection from the labor or health ministries in order to remove themselves from the condition without jeopardizing their employment. The ministries generally effectively addressed these complaints by sending inspection teams to investigate them and coordinate with each other on follow-up actions.

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## CUBA

Cuba, with a population of approximately 11 million, is a totalitarian state that does not tolerate opposition to official policy. The country is led by Raul Castro, who holds the positions of chief of state, president of the council of state and council of ministers, and commander in chief of the Revolutionary Armed Forces. Although the constitution recognizes the unicameral National Assembly as the supreme authority, the Communist Party (CP) is recognized in the constitution as the only legal party and "the superior leading force of society and of the state." Fidel Castro remained the first secretary of the CP. The January 2008 elections for the National Assembly were neither free nor fair, and all of the candidates had to be preapproved by a CP candidacy commission, with the result that the CP candidates and their allies won 98.7 percent of the vote and 607 of 614 seats in the National Assembly. Civilian authorities, through the Ministry of the Interior, exercised control over the police, the internal security forces, and the prison system.

The government continued to deny its citizens their basic human rights, including the right to change their government, and committed numerous and serious abuses. The following human rights problems were reported: beatings and abuse of prisoners and detainees, harsh and life-threatening prison conditions, including denial of medical care; harassment, beatings, and threats against political opponents by government-recruited mobs, police, and state security officials acting with impunity; arbitrary arrest and detention of human rights advocates and members of independent professional organizations; and denial of fair trial, including for at least 194 political prisoners and as many as 5,000 persons who have been convicted of potential "dangerousness" without being charged with any specific crime.

Authorities interfered with privacy and engaged in pervasive monitoring of private communications. There were also severe limitations on freedom of speech and press; denial of peaceful assembly and association; restrictions on freedom of movement, including selective denial of exit permits to citizens and the forcible removal of persons from Havana to their hometowns; and restrictions on freedom of religion and refusal to recognize domestic human rights groups or permit them to function legally. Discrimination against persons of African descent, domestic violence, underage prostitution, trafficking in persons, and severe restrictions on worker rights, including the right to form independent unions, were also problems.

### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits abusive treatment of detainees and prisoners. However, there were verifiable reports that members of the security forces harassed and sometimes

physically assaulted human rights and prodemocracy advocates, dissidents, detainees, and prisoners, and did so with impunity.

Authorities sometimes beat and threatened dissidents and their families. Some detainees and prisoners endured physical abuse, sometimes by other inmates with the acquiescence of guards, or long periods in isolation cells.

In some cases authorities psychologically abused political dissidents. For example, during a three-day interrogation beginning on February 27, opposition activist Lilvio Fernandez Luis was falsely told that his father-in-law had suffered a heart attack, while his wife, who was not told of his whereabouts, received multiple telephone calls from a woman claiming to be Fernandez's lover.

The government continued to subject opposition activists and their families to abuse by organizing "acts of repudiation," or staged public protests, often in front of their homes. Participants were drawn from the CP, the Union of Communist Youth (UJC), Committees for the Defense of the Revolution (CDRs), the Federation of Cuban Women, and the Association of Veterans of the Cuban Revolution or were brought in by the authorities from nearby workplaces or schools. Mob actions included shouting insults and obscenities, sometimes over loudspeakers, and throwing rocks, fruit, and other objects at their homes. In extreme cases, mobs assaulted the victims or their relatives or damaged their homes' or property, as was the case in the July 9 arrest of Dr. Darsi Ferrer, when neighbors, apparently acting in coordination with the arresting officers, ransacked Ferrer's home.

Although the government characterized these "acts of repudiation" as spontaneous, as in past years, undercover police and agents from the General Directorate for State Security (DGSE) were often present and clearly directed the activities, for example by threatening neighbors with job loss if they did not participate. The government did not detain any participants involved in these acts, including those who physically attacked the victims, nor did police respond to victims' complaints.

Members of the Damas de Blanco ("Ladies in White"), a group of relatives and supporters of the 75 political prisoners who were arrested in the spring of 2003 (of whom 53 remained in detention), were targeted several times during the year with detentions and acts of repudiation designed to disrupt or discredit their activities. On March 20, 30 members of the group gathered in front of the Supreme Court building for a planned march requesting freedom for their family members. Dozens of individuals, some of whom were identified as DGSE agents, surrounded the protesters. The mob shouted obscenities and insults and pursued the protesters as they left the scene.

On December 9 and 10, the Damas de Blanco organized peaceful marches in commemoration of Human Rights Day. On both days the marchers were met by large, state-organized, counterdemonstrations of between 300 and 500 individuals, who surrounded the human rights activists, shouted obscenities and insults, and tried to assault them. Foreign diplomats observed state security agents organizing the mob even while establishing a defensive corridor around the women to protect them. The mob followed the women back to the house of one of the organizers and continued chanting and shouting in front of the house for more than an hour. Some of the Damas reported minor injuries.

Also on December 10, supporters of imprisoned human rights activist Dr. Darsi Ferrer attempted to gather in the park where he and his followers have traditionally assembled to commemorate Human Rights Day. Again, state security officers served the dual roles of organizing the counterdemonstrators and keeping them in check. The mob of approximately 300 assaulted the marchers upon their arrival at the park, hitting, shoving, and spitting at them. Eventually, state security officers detained the human rights activists, drove them away in unmarked cars, and detained them for several hours before releasing them without charges.

*Prison and Detention Center Conditions.*—Prison conditions continued to be harsh and life threatening. Food shortages were widespread, due in part to corruption. Meals were often spoiled or infested with vermin. Prisoners' relatives were authorized to visit every two to three months and bring a hot meal and up to 30 pounds of food and other basic supplies. Political prisoner Ariel Sigler-Amaya suffered from malnutrition, lost almost 50 percent of his body weight, and began to suffer from paraplegia before he was moved to a hospital in Havana for treatment.

Reports of beatings of prisoners were commonplace. Political prisoner Felix Navarro reported from Canaleta Provincial Prison in the province of Ciego de Avila that guards beat prisoners on numerous occasions, sometimes employing attack dogs. There were reports of prisoner-on-prisoner sexual assaults, generally due to lax security by prison guards.

Prison cells lacked adequate water, sanitation, space, light, ventilation, and temperature control. Running water was rare and, if available, generally ran only for a limited time in the morning and evening. Water for drinking and bathing was foul

and frequently contaminated with parasites. Many prisoners reported receiving only one small glass of water per day, even when confined to sweltering cells during the summer. Vermin and insect infestations were common, with inmates reporting rats, cockroaches, fleas, lice, bedbugs, stinging ants, flies, and mosquitoes.

Prison cells were overcrowded, requiring prisoners to sleep on the floor and limiting freedom of movement during the day. Prisoners often slept on concrete bunks without a mattress. Where available, mattresses were thin and often infested with vermin. Prisoners reported increased mattress distribution during the year and transfers of prisoners from maximum-security prisons to rural work camps, which alleviated some prison overcrowding.

Prisoners were often held in isolation to punish misconduct. In general, prisoners in isolation had restrictions on family visits.

Prisoners, family members, and nongovernmental organizations (NGOs) reported inadequate health care, which led to or aggravated hypertension, diabetes, heart conditions, asthma, skin disease, infections, digestive disorders, and conjunctivitis, among other maladies. Prisoners also reported outbreaks of dengue, tuberculosis, and hepatitis. Prison health workers often reused syringes, despite existence of communicable diseases among inmates.

The Cuban Commission for Human Rights and National Reconciliation (CCDHRN) reported multiple prison deaths from heart attacks, asthma attacks, and other chronic medical conditions, as well as from suicide. While exact figures were not available, the CCDHRN indicated that overall incidence of prison deaths appeared to have declined slightly compared with previous years.

The government placed healthy prisoners in cells with mentally disturbed inmates. Political prisoners were placed in the same cells as common prisoners and sometimes reported being threatened or harassed by fellow inmates acting on the orders of prison authorities.

Some pretrial detainees were held at maximum-security prisons, where they stayed for months or years without being charged. Darsi Ferrer was arrested on July 9 and taken directly to Valle Grande maximum-security prison, where at year's end he remained without being formally charged. Jose Diaz Silva was arrested June 10 and was also being held at Valle Grande without charge at year's end. Vladimir Alejo Miranda was arrested in 2007 and spent 18 months in a maximum-security prison before being sentenced to a two-year prison term in June. He was released from prison on October 23, two months shy of completing the full two-year sentence.

The government did not publish the number of prisoners or detainees, nor did it provide information regarding the number or location of detention centers, which include not only prisons but also work camps and other kinds of detention facilities.

Men and women were held in separate prisons and police detention facilities. Women reported suffering the same poor prison conditions as men. In addition women reported lack of access to feminine hygiene products and adequate prenatal care. The government did not release information on the treatment of minors at either youth or adult prisons or detention centers. There were reports of inmates as young as 15 in maximum-security prisons.

Prison officials regularly denied prisoners the right to correspondence and often denied family visits as a form of punishment or shortened the visits capriciously.

While the government sometimes denied political detainees and prisoners pastoral visits, in September the government authorized Catholic and Protestant religious services in prisons throughout the island, and detainees reported that authorities increasingly honored written requests to receive visits from clergy. Religious leaders reported an increased ability to hold Christian services in prisons.

Many political prisoners were serving sentences in prisons located long distances from their home provinces, increasing their and their families' sense of isolation and directly affecting their families' ability to visit them or supply them with food and other aid. The government did not permit independent monitoring of prison conditions by international or national human rights groups and did not permit access to detainees by international humanitarian organizations. The government has not granted prison visits by the International Committee of the Red Cross, Amnesty International, or Human Rights Watch since 1988.

Although the government has not traditionally allowed independent human rights observers to monitor prison conditions, it invited Manfred Nowak, UN special rapporteur for torture and other cruel, inhuman, or degrading treatment or punishment, to conduct a mission to the country, although no date for the visit had been agreed to by year's end. Improvements in prison conditions, including facilities upgrades and some prisoner transfers to reduce overcrowding, were reported throughout the year by prisoners and NGOs. Prisoners' families and NGOs perceived these improvements as being directly linked to the special rapporteur's planned visit.

*d. Arbitrary Arrest or Detention.*—Although prohibited by law, the government effectively and frequently used arbitrary arrest and detention to harass opponents. The law denies all legally recognized civil liberties to anyone who “actively opposes the decision of the people to build socialism.” Government officials routinely invoked this authority to deny due process to persons detained on purported state security grounds.

On July 9, Darsi Ferrer, a physician and director of the Juan Bruno Zayas Center for Health and Human Rights, and his wife were detained for most of the day to prevent their participation in a planned human rights march. At year’s end no formal charges had been brought against Ferrer, and he continued to be held with common prisoners in a maximum-security prison.

On November 6, state security stopped bloggers Yoani Sanchez and Orlando Luis Pardo while they were on their way to a peaceful demonstration against violence. Sanchez and Pardo were beaten during their brief detention. On November 27, state security also detained Juan Almeida Garcia while he was en route to a protest march; he was released on November 30.

*Role of the Police and Security Apparatus.*—The Ministry of the Interior exercises control over police, the internal security forces, and the prison system. The National Revolutionary Police (PNR) is the primary law enforcement organization and was moderately effective in investigating common crimes. Specialized units of the Ministry of the Interior’s state security service are responsible for monitoring, infiltrating, and suppressing opposition political groups. The PNR played a supporting role by carrying out house searches and providing interrogation facilities for state security agents.

Members of the security forces acted with impunity in committing numerous, serious human rights abuses. While the PNR ethics code and Ministry of the Interior regulations ban police brutality, security forces continued to employ aggressive and physically abusive tactics, and the government did not announce any investigations into police misconduct during the year. Nor were any training or reform initiatives announced during the year. Corruption among police was a problem.

CP officials and leaders of neighborhood CDR branches lacked formal law enforcement powers but wielded considerable authority and often used it to mobilize action against persons criticizing the government or its leaders.

*Arrest Procedures and Treatment While in Detention.*—The law places few formal limits on police discretion to stop or interrogate citizens. Police street surveillance was heavy, and police frequently and randomly stopped cars and pedestrians for questioning. There are no formal protections under the law to protect citizens from these investigative stops, and there were many reports that such stops continued during the year.

Police have broad detention powers, which they may exercise without a warrant. Under the law, police can detain without a warrant not only persons caught in the act but also someone merely accused of a crime against state security. Police, by law, cannot conduct a search without a warrant, but both the CCDHRN and human rights lawyer Rene Gomez Manzano reported that police always had available a supply of signed and stamped blank warrants that they merely filled out on the spot.

The criminal process begins with the filing of a criminal complaint by either a citizen or a police officer. By law, after an arrest police have 24 hours to present the complaint to a police official called an instructor. The instructor then has 72 hours to investigate and prepare a report for the prosecutor. The prosecutor then has an additional 72 hours to recommend to the appropriate court whether an investigation should continue or the case should be dropped. If the court approves further investigation, the detained person can be released on bail, released into home detention or to the custody of an official entity (such as a CDR), or kept in custody while the investigation proceeds. By law, after this 144-hour period, the person under arrest must be informed of the reasons for the detention. Following this notification, the accused can continue to be legally detained until charges are filed. However, under special circumstances where a court determines that further investigation is necessary, this requirement can be waived and the accused can be held, without charges, indefinitely. This requirement is commonly waived in cases involving political detainees, who are frequently held for months or years without being informed of any formal charges.

At year’s end political dissidents Ihosvani Suris de la Torre and Maximo Pradera Valdez, held without charges since 2001, remained in detention while their cases underwent further investigation.

The law provides for detainees’ prompt access to a lawyer. After being notified of the reasons for detention, the accused has the right to engage an attorney at any

time. However, access to a public defender is not available until after formal charges are filed. If the accused has not engaged an attorney within five days of being formally charged, the court will appoint a public defender. Once the accused has an attorney, the defense has five days to respond formally to the charges, after which a court date usually is set. However, a prosecutor can demand a summary trial, in which case the defense has minimal time to prepare its case and may only meet the client minutes before the hearing starts.

Bail was available, although typically not granted in cases involving alleged antigovernment activity. Time in detention before trial counted toward time served if convicted. The government often denied prisoners and detainees prompt access to family members.

Although the authorities continued to resort to brief detentions of human rights advocates, the trend appeared to be declining compared with 2008. In most cases, dissidents were held for several hours and then released without charges. Such detentions generally coincided with planned activities by human rights activists and prevented their participation in these activities. The CCDHRN received reports of as many as 800 such detentions during the year but suspected there were many more.

In August authorities detained two lesbian, gay, bisexual or transgender (LGBT) activists without charges for 13 days, in connection with their efforts to plan a "Mr. Gay Cuba" competition; during that period they were held incommunicado for more than 24 hours. On September 23, police detained Belinda Salas Tapanes, president of the Federation of Rural Latin American Women-Cuba, for several hours and questioned her about her advocacy activities. Salas was 38 weeks pregnant, and her family was not notified of her location. In the week leading up to the September 20 "Peace without Borders" concert in Havana, more than 40 leading dissidents were briefly detained and threatened with imprisonment if they attended. On the day of the concert, PNR officers were stationed outside many dissidents' houses to prevent them from leaving.

Dissident Jorge Luis Garcia Perez (also known as Antunez) remained under virtual house arrest in his hometown of Placetas for most of the year. Antunez was confined to his home at least once a month for several hours at a time and detained in Havana and forcibly returned to Placentas many times throughout the year. After each detention, he was released without charges.

*e. Denial of Fair Public Trial.*—While the constitution provides for independent courts, it explicitly subordinates them to the National Assembly and the Council of State. Through the National and Provincial Assemblies, which choose all judges, the CP exerts near total influence over the courts.

Civilian courts existed at the municipal, provincial, and Supreme Court levels. Panels composed of professionally certified and lay judges presided over them. Military tribunals, which are governed by a special law, assumed jurisdiction for certain "counterrevolutionary" (almost always political in nature) cases. Military tribunals may also have jurisdiction over civilians in cases where any of the defendants were members of the military, police force, or other law enforcement agency. In these tribunals defendants have the right to know the charges, the right to an attorney, and the right to appeal.

*Trial Procedures.*—The courts often failed to observe due process rights nominally available to defendants. The law presumes defendants are innocent until proven guilty, but authorities often ignored this in practice. The law does not provide for jury trials. While most trials ostensibly were public, trials were closed whenever state security was at stake, a frequent occurrence. Almost all cases were tried in less than one day.

The law provides the accused with the right to an attorney, the right to be present during the trial, and the right to consult with an attorney in a timely manner. When necessary, an attorney is provided at public expense. However, prosecutors' requests for summary judgment sometimes left defendants with little or no time to consult with a defense attorney. Summary judgment was particularly common in cases involving charges of "dangerousness."

On September 29, Oswaldo Paya, leader of the Christian Liberation Movement (MCL), reported the arrest and summary judgement of Agustin Cervantes, who was sentenced to two years in prison for collecting signatures for the Varela project, an effort to present citizen petitions advocating freedom of speech and of assembly to the National Assembly.

Criteria for presenting evidence were arbitrary and discriminatory. While defendants have the right to present witnesses, and they or their attorneys can question witnesses against them, these rights were observed arbitrarily, particularly in cases involving alleged threats to security of the state. Defense attorneys have



the right to review the investigation file at any time, unless the investigation involves “crimes against the security of the state.” In these cases, defense attorneys are not allowed access to the file until charges have been filed. In practice, many political detainees have reported that their attorneys had difficulties accessing their files due to bureaucratic and administrative obstacles that seemed politically motivated. Because of these constraints and because most trials last less than eight hours, defense attorneys often did not have time to arrange for testimony by defense experts.

The penal code includes the concept of “potential dangerousness,” defined as the “special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms.” No evidence is required for a conviction for this offense. The CCDHRN estimated that between 3,000 and 5,000 citizens were serving time in detention for this offense, including approximately 1,000 women (mostly for suspicion of prostitution). The authorities mostly applied this law in non-political cases to target prostitutes, young persons who refused to report to work centers, and repeat offenders of laws restricting change of domicile. The CCDHRN listed six new cases of political prisoners convicted of “potential dangerousness” during the year, the same number of cases as the previous year.

Prosecutors may introduce testimony from a CDR member about the revolutionary background of a defendant, which may contribute to longer or shorter sentences.

The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases involving lengthy prison terms or the death penalty.

On August 4, Juan Carlos Gonzalez Marco, commonly known as Panfilo, was arrested and charged with “dangerousness” as a result of a series of three video clips that appeared on YouTube. In the clips, Panfilo drunkenly complained about hunger and food shortages and later expressed concern about his own safety and the security of his family should he be arrested. It was widely reported that he had been threatened by state security following the dissemination of the first video. Following his arrest, Panfilo was sentenced to two years in prison. On September 21, his sentence was commuted, and he was sent to a psychiatric hospital for a 21-day alcohol treatment program.

*Political Prisoners and Detainees.*—At year’s end there were at least 194 political prisoners and detainees, compared with 205 at the end of 2008. Convictions were for offenses such as “disrespect of the head of state,” “disrespect and scorn of patriotic symbols,” public disorder, and attempting to leave the country illegally. Other inmates were convicted of “disseminating enemy propaganda,” “illicit association,” clandestine printing, or the broad charge of rebellion, which sometimes has been brought against advocates of peaceful democratic change. On August 3, opposition member Ernesto Medero Arozarena was stopped by authorities while returning home from an event commemorating the 15th anniversary of the “Maleconazo” (a 1994 antigovernment demonstration). Medero reportedly resisted arrest and was being held without charges in the Aguica maximum-security prison in Matanzas Province at year’s end.

Authorities more frequently used short-term detention rather than prosecution to harass political opponents and dissuade them from public action. During these detentions, authorities frequently threatened dissidents with prosecutions for “dangerousness,” although few were charged and sentenced. The number of convictions for “dangerousness” remained significant during the reporting period, but most of those convicted were not politically affiliated. Human rights groups also reported an increased tendency to incarcerate dissidents in maximum-security prisons, usually reserved for violent convicts or career criminals, on nonviolent, common criminal charges.

At year’s end 53 of the 75 peaceful activists, journalists, union organizers, and opposition figures arrested and convicted in 2003, mostly on charges of violating national security and “aiding a foreign power,” remained in prison.

Mistreatment of political prisoners and detainees was widespread. Beatings were not uncommon. On March 7, Yasmani Reina Pardo was reportedly beaten by prison guards in full view of other prisoners while senior prison leadership watched without intervening. On March 10, and again on March 13, guards reportedly beat Abel Vento Garcia. Following the beating on the night of the 13th, guards threw cold water on him and left him in a frigid cell.

Many political prisoners were denied privileges given to ordinary prisoners, such as access to outdoor activities or exercise. The government continued to deny human rights organizations and the International Committee of the Red Cross access to political prisoners and detainees. Authorities sometimes denied visits to families of political prisoners and detainees. Prisoners in punishment cells had no access to lawyers.

*Civil Judicial Procedures and Remedies.*—Civil matters such as family relations, debt, property, and commercial disputes are handled by civil courts. However, these courts were not widely utilized outside of family issues, such as divorce and child custody, due to a lack of public awareness about legal options and an insufficient supply of well-trained and affordable lawyers. Most torts provisions typically associated with civil courts were remedied in criminal court. The only way a citizen can seek redress for a human rights violation is to convince a prosecutor to file criminal charges. The CCDHRN was not aware of any successful human rights-related prosecutions during the year or of any damages ordered by any court in connection with a human rights case. In cases of police brutality or cases involving a member of the military, charges must be presented before a military tribunal. The CCDHRN stated that CP and government control of the prosecutors' offices and the courts discouraged citizens from seeking legal redress.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—While the constitution provides for the inviolability of a citizen's home and correspondence, official surveillance of private and family affairs by government-controlled organizations, such as the CDRs, remained pervasive. The government employed physical and electronic surveillance against political opponents, interfered in the lives of citizens, and employed a wide range of social controls to discover and discourage non-conformity.

DGSE agents routinely read correspondence from abroad. Most letters from overseas were delivered with the envelope torn and resealed; many were placed in a different envelope. The DGSE also monitored domestic and overseas telephone calls and conversations with foreigners. In September the MCL reported that authorities had broken into the home of Agustin Cervantes and stolen several pages of signatures collected as part of the Varela Project. At least one other group reported a similar break-in and theft. Dissidents often reported that their phones were tapped and expressed frequent concerns about electronic surveillance of their homes.

DGSE agents subjected journalists and foreign diplomats to harassment and surveillance, including electronic surveillance and surreptitious entry into their homes. Civil society organizations reported intensified government monitoring of dissidents. The government took no known action on a judge's order that it investigate the August 2008 complaint of prominent dissidents Martha Beatriz Roque, Vladimiro Roca, and Jorge Luis Perez Garcia (Antunez), who filed a formal complaint that dissemination of personal communications and documents in the media violated their privacy. Civil society organizations continued to report property seizures by local police or state security agents who refused to provide legally required documentation of the seizure.

Workers subcontracted by state employment agencies must satisfy political qualifications, and those agencies consulted with the CP, the Cuban Confederation of Workers (CTC), and the UJC to vet applicants for work in joint enterprises. The law requires workers to have government permission to contract directly with foreign companies. Although a few firms negotiated exceptions, the government required foreign investors and foreign diplomatic missions to contract workers through state employment agencies.

Unlike in 2008, there were few reports of forced evictions of squatters. However, residents who lacked official permission to reside in Havana continued to be forcibly removed to their city of legal residence.

The Ministry of Interior employed a system of informants and CDR block committees to report on suspicious activities, including "conspicuous consumption;" unauthorized meetings, including those with foreigners; and what they considered defiant attitudes toward the government and the revolution.

Relatives of political dissidents sometimes suffered reprisals. Some wives and children of opposition figures were denied employment for being "untrustworthy," prevented from matriculating into universities or denied academic distinctions or exit permits to leave the country. Children reported being insulted, mocked, or otherwise mistreated by teachers and school administrators, who labeled them and their parents "counterrevolutionaries" in front of their classmates.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press insofar as they "conform to the aims of socialist society," a clause effectively barring free speech. In practice the government did not allow criticism of the revolution or its leaders. Laws against antigovernment propaganda, graffiti, and disrespect of officials carried penalties of between three months and one year in prison; criticism of the president or members of the National Assembly or Council of State is punishable by one to three years' imprisonment. Disseminating "enemy propaganda," which includes expressing opinions at odds with those of the govern-

ment, is punishable by up to 15 years' imprisonment if the "propaganda" was distributed by means of mass media. The government considered international reports of human rights violations to be enemy propaganda. Local CDRs inhibited freedom of speech by monitoring and reporting dissent or criticism.

Catholic priests and other clergy were able to deliver sermons without prior government approval and in some cases made veiled criticisms of the government without immediate reprisal. Catholic Church officials were allowed to broadcast 15-minute radio programs on special occasions such as Christmas, as long as the programs did not have any political content.

The government considered print and electronic media to be state property. The government owned and the CP controlled all authorized media. The government operated four national television stations, six national radio stations, one international radio station, one national magazine, and three national newspapers, as well as numerous local media outlets. All were official CP organs. Content was nearly uniform across all of these media; none enjoyed editorial independence. The regime vigorously prosecuted attempts to distribute unauthorized written, filmed, or photographed material. The law bars "clandestine printing." The government was the sole book publisher in the country, and with the exception of some publications by the Catholic Church and other denominations, state censors required prepublication approval.

The government subjected independent journalists to travel bans, detentions, harassment of family and friends, equipment seizures, imprisonment, and threats of imprisonment. DGSE agents posed as independent journalists to gather information on activists and spread misinformation and mistrust within independent journalist circles. At least 25 journalists were in prison during the year.

The law prohibits distribution of printed material from foreign sources that are considered counterrevolutionary or suspicious. Foreign newspapers or magazines were generally unavailable. Persons distributing copies of the Universal Declaration of Human Rights continued to be harassed and, in some instances, detained. The government continued to jam the transmissions of Radio Marti and Television Marti.

The government frequently barred independent libraries from receiving materials from abroad and seized materials donated by foreign governments.

*Internet Freedom.*—The government controlled nearly all Internet access. Authorities reviewed and censored e-mail. Authorities employed Internet search filters and also blocked access to Web sites that they considered objectionable. Citizens could access the Internet only through government-approved institutions, except at Internet facilities provided by a few diplomatic missions. Despite the government's March 2008 decision to allow citizens to purchase personal computers, access to the Internet was strictly controlled and given only to those deemed "ideologically trustworthy." The only citizens granted direct Internet access were some government officials and certain government-approved doctors, professors, students, and journalists. The government restricted Internet use in government offices and applied extensive filters that both restricted access to content and slowed download times. Numerous human rights groups also reported that authorities used mobile patrols to search for unauthorized Internet, satellite television, and digital cable users. When police discovered violators, they confiscated the equipment and cited the owners.

Both foreigners and citizens were allowed to buy Internet access cards from the national telecommunications provider and to use hotel business centers, where Internet access can be purchased only in convertible currency. Access usually cost between five and 10 convertible pesos (\$5.40 to \$10.80) an hour, a rate beyond the means of most citizens. The International Telecommunication Union reported that 13 percent of the population used Internet services in 2008. This figure included citizens who had access to the government Intranet only at work.

The law requires all public Internet centers to register with the government and permits the Ministry for Information Technology and Communications to control and supervise all such centers without prior warning.

While the law does not set specific penalties for unauthorized Internet use, it is illegal to own a satellite dish that would provide uncensored Internet access. In October 2008 the government instructed providers of public Internet access to block access to sites "whose contents are contrary to social and moral interests and community standards" or applications that "affect the integrity or the security of the State." The same resolution ordered Internet providers to prevent the use of encryption software and the transfer of encrypted files. A growing number of citizens maintained blogs where they often posted opinions critical of the government; in October authorities banned one such blogger, Yoani Sanchez, from travelling abroad to receive a journalism award. Local access to all of these blogs was blocked.

*Academic Freedom and Cultural Events.*—The government restricted academic freedom and controlled the curriculum at all schools and universities, emphasizing the importance of reinforcing “revolutionary ideology” and “discipline.” Students were required to swear by the principles of the CP and to model their lives after Ernesto “Che” Guevara. Academics were prohibited from meeting with some diplomats without prior government approval, and those permitted to travel abroad were aware that their actions, if deemed politically unfavorable, could negatively affect them and their relatives back home.

In July, 29 students selected for scholarships to study abroad were denied exit permits. In addition some of the students reported being harassed by university and CP officials and threatened with expulsion from CP organizations at their universities. Officials denied that university officials harassed or threatened any of the individuals.

Government-controlled public libraries required a government letter of permission for access to books or information.

There were reports that university admission was denied to the children of political dissidents.

*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.”

*Freedom of Assembly.*—The law allows for punishment of any unauthorized assembly of more than three persons, including those for private religious services in private homes, by up to three months in prison and a fine. The government did not grant permission to any antigovernment demonstrators or approve any public meeting by a human rights group.

Civil society organizations reported continued suppression of the right to assemble. Dissident Jose Diaz Silva reported that on May 25, police forcibly entered his home and violently broke up a gathering of 40 persons who were commemorating the anniversary of his organization. The authorities detained activists for short periods to prevent them from attending meetings, demonstrations, or ceremonies. The CCDHRN reported that there were at least 700 short-term detentions, compared with approximately 1,500 such detentions in 2008.

Although unauthorized, the Damas de Blanco generally were allowed to assemble and stage marches each Sunday demanding freedom for their imprisoned family members. However, the organization reported that their activities beyond the traditional weekly marches were disrupted on several occasions during the year. Members reported brief detentions aimed at blocking participation in events, threats from state security agents that visits or calls to imprisoned family members would be limited or discontinued if activities continued, and “acts of repudiation” during marches and activities.

During the first week of August, prior to the “Maleconazo” anniversary commemoration, human rights activists reported a significant increase in monitoring and detentions. More than a dozen activists were detained for several days to prevent them from leading or participating in commemorative events.

Human rights activists reported frequent government monitoring and disruption of cell phone and landline services prior to planned events or key anniversaries related to human rights.

*Freedom of Association.*—The law specifically prohibits unrecognized groups, and the government routinely denied its citizens freedom of association. The constitution proscribes any political organization other than the CP. Authorities have never approved the establishment of a human rights group; however, a number of professional associations operated as NGOs without legal recognition.

Recognized churches, the Roman Catholic humanitarian organization Caritas, the Freemason movement, and a number of fraternal or professional organizations were the only associations permitted to function outside the formal structure of the state, the CP, and their mass organizations. The authorities continued to ignore applications from new groups for legal recognition, including several new religious groups as well as women’s rights and gay rights organizations, thereby subjecting members to potential charges of illegal association. However, the Cuban Council of Churches (CCC) reported that six new religious denominations were legally recognized during the year.

*c. Freedom of Religion.*—The constitution recognizes the right of citizens to practice any religious belief within the framework of the law; however, the government continued to restrict freedom of religion.

Although it did not favor any particular religion or church, the government co-sponsored public events with some churches through the CCC. The CCC includes

25 religious organizations as full members, eight associate members, and two with observer status. It does not include the Catholic Church, among others.

The government required churches and other religious groups to enroll with the provincial registry of associations within the Ministry of Justice to obtain official recognition. A government directive requires house-church operators to register their house churches with the government. To register, an operator must meet a number of requirements, such as limiting weekly meetings to a number specified by local authorities. The CCC reported that there were approximately 2,400 registered house churches, while the status of another 300 to 400 remained pending.

The government rarely permitted the construction of new churches, although it increasingly permitted the restoration and expansion of existing churches.

Education was secular, and no primary or secondary religious educational institutions were allowed. However, the Catholic Church, Protestant churches, and Jewish synagogues were permitted to offer religious education classes to their members and adult education classes to the general public.

Leaders from several different Protestant denominations reported efforts by DGSE agents to infiltrate congregations and to report on the content of sermons and religious activities. In addition the NGO Christian Solidarity Worldwide (CSW) reported that more than 30 pastors were detained during the year and threatened with charges of "dangerousness" in association with their religious activities. One pastor, Omar Gude Perez, was convicted in July on charges of "falsification of documents" and sentenced to six years in prison; Gude claimed he was targeted because of his religious activities.

Religious literature and other materials generally are imported through a registered religious group and distributed to officially recognized religious groups.

Religious groups were required to submit a request to local CP officials before holding processions or events outside of religious buildings.

The CSW also reported that in May authorities confiscated the home of pastor Tomaza Victoria Ayala Zeller of Las Tunas Province, which also served as her church, leaving the family homeless. The government threatened to charge Ayala with "dangerousness" if she continued to participate in religious services. Authorities also closed the family's carpentry shop, depriving them of all sources of income.

There were isolated but decreasing reports of mistreatment and discrimination against Seventh-day Adventists and Jehovah's Witnesses in employment and education.

*Societal Abuses and Discrimination.*—There were no reports of societal violence, harassment, or discrimination against members of religious groups. There were between 1,000 and 1,500 members of the Jewish community. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law qualifies freedom of movement within the country, foreign travel, emigration, and repatriation, and in practice the government severely restricted these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to the small number of refugees and asylum seekers in the country.

The government tightly restricted foreign and domestic travel and limited internal migration from rural areas to Havana. Authorities frequently picked up dissidents visiting Havana and promptly escorted them back to their home provinces.

Although the constitution allows all citizens to travel anywhere within the country, changes of residence were heavily restricted. The local housing commission and provincial government authorities considered requests for change of residence largely on the basis of housing space. During the wait for permission, which routinely lasted six months or more, the applicant could not obtain food rations or a local identification card in the new location. Anyone living in a location illegally may be fined and sent home. While the regulation was in effect nationwide, it was applied most frequently in Havana. Human rights organizations estimated that the expulsion from Havana of young persons and individuals from the eastern provinces averaged more than 100 persons a week. Police threatened to prosecute for "dangerousness" anyone who returned to Havana after having been expelled.

The government restricted both emigration and temporary foreign travel, mainly by requiring an exit permit. The government allowed the majority of persons who qualified for immigrant or refugee status in other countries to depart. However, at least 450 citizens who had received foreign travel documents were denied exit permits during the year. Persons routinely denied exit permits included medical per-

sonnel, men of military age, and citizens with certain political beliefs. An unpublished government policy denies exit permits to medical professionals until they have performed, on average, six to eight years of service in their profession after requesting permission to travel abroad; nurses and medical technicians waited an average of two to three years to receive exit permission.

The government denied exit permits for several years to relatives of individuals who migrated illegally (for example, merchant seamen and sports figures who defected while out of the country). The government frequently withheld exit visas from dissidents. After a wait of more than 15 years, dissident physician Hilda Molina received an exit visa in June to visit her elderly mother and son in Argentina.

The government also denied exit permission to citizens who held valid foreign travel documents. In October blogger Yoani Sanchez was denied permission to travel abroad to receive a prestigious journalism award, the most recent in a series of denials.

The law permits authorities to bar an individual from a certain area, or to restrict an individual to a certain area, for a period of one to 10 years. Under this provision, authorities may internally exile any person whose presence in a given location is considered "socially dangerous." Authorities routinely warned emigrants and their family members that speaking out against the government abroad could result in repercussions for relatives remaining in Cuba, such as loss of employment or denial of permission to leave the country.

Those seeking to emigrate legally alleged they also faced fines, reprisals, harassment, and intimidation by the government, including involuntary job transfers, threatened arrest, and dismissal from employment. Government employees who apply to emigrate legally to the United States are usually fired from their jobs when their plans become known, which is not normally the case for those who seek to emigrate to other countries. The government routinely waited up to eight years to grant permission to doctors or other professionals with advanced degrees to emigrate.

Fees for medical exams, exit permissions, passport costs, and airport taxes are payable only in convertible pesos and amounted to approximately 580 convertible pesos (approximately \$625) for an adult, or nearly three years' salary. These fees represented a significant hardship, particularly for migrants who had been forced from their jobs and had no income. At year's end some would-be migrants were unable to leave the country because of inability to pay exit fees. Authorities routinely dispossessed migrants and their families of their homes and most of their belongings before permitting them to leave the country.

The law provides for imprisonment of up to three years or a fine of 300 to 1,000 pesos (approximately \$11 to \$38) for unauthorized departures by boat or raft. The government also sometimes applied a law on trafficking in persons to would-be migrants charged with organizing or promoting illegal exits. The law provides for imprisonment from two to five years for those who organize, promote, or incite illegal exit from national territory. The CCDHRN estimated that at year's end approximately 300 citizens had been fined, were awaiting charges, or were serving sentences on trafficking charges. Jail terms were more common for persons attempting to flee to the United States through the Guantanamo U.S. Naval Base. Under the terms of the 1994 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 Station at Guantanamo, after attempting to emigrate illegally if they had not committed a separate criminal offense. However, in practice some would-be migrants experienced harassment and discrimination such as fines, expulsion from school, and job loss.

The government generally refused to accept nationals returned from U.S. territory beyond the maritime limits of the Migration Accord. However, under a 2008 migration accord with Mexico, the government accepted the return of approximately 100 migrants in three separate repatriations.

*Protection of Refugees.*—Although the country is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, the constitution provides for the granting of asylum to individuals persecuted for their ideals or actions involving a number of specified political grounds. Although the government has no formal mechanism to process asylum for foreign nationals, in practice it provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. These protections were also provided to some fugitives from justice, whom the government defined as refugees for political reasons.

The government allowed a small number of asylum seekers identified by the UNHCR to remain in the country while third-country settlement was being sought. In addition the government allowed foreign medical students who feared persecution

in their home countries to remain in the country after the end of their studies so that an investigation of their concerns could be conducted.

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

While the constitution provides for direct election of provincial, municipal, and National Assembly members, citizens do not have the right to change their government, and the government retaliated against those who sought peaceful political change.

In February 2008 the National Assembly unanimously elected Raul Castro to succeed his brother as chief of state, president, and commander in chief of the armed forces. Without citizen participation, existing undemocratic institutions, including the armed forces, the CP, and the National Assembly, endorsed the transfer of power.

In the elections for the National Assembly held in 2008, the government promoted a unified CP-approved slate of candidates. The CP candidates and their allies won 98.7 percent of the vote and 607 of 614 seats in the National Assembly.

*Elections and Political Participation.*—Candidates for provincial and national office must be approved in advance by mass organizations, such as the women's and youth party organizations controlled by the government. A small group of leaders, under the direction of the president, selected the members of the highest policy-making bodies of the CP, the Politburo, and the Central Committee. Although non-CP members can contest elections, all candidates must be approved by CP-dominated candidacy commissions, and the commissions approve only one candidate per office. Although not a formal requirement, in practice CP membership was a prerequisite for high-level official positions and professional advancement.

The government maintained a dossier on every child from kindergarten through high school, which included a record of the child's participation in political activities, such as mandatory marches. Full participation in political activities, such as membership in the Union of Pioneers of Cuba, a regimented youth organization used by the government for political indoctrination, was essential to advance in the school system.

There were two women in the 24-member Politburo and 15 in the 107-member Central Committee. Women held eight seats in the 27-member Council of State and 265 seats in the 614-seat National Assembly.

Persons of African descent held five seats in the Politburo. Following the selection of the National Assembly in February 2008, the government reported its composition as 64 percent white, 19 percent black, and 16 percent mixed race.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. The World Bank's worldwide governance indicators reflected that government corruption was a problem.

Unofficial reports indicated that in April the military, which controls most state-run enterprises and joint ventures with international firms, detained several high-ranking officials as part of an investigation into corruption and black-market sales. In August the National Assembly voted to establish a new Office of the General Comptroller and ratified the nominee to take charge of the office as part of an effort to address corruption and to increase control over state assets. The office began functioning immediately and performed audits during the year.

Government officials are not subject to any special financial disclosure laws. The law provides for three to eight years' imprisonment for "illegal enrichment" by authorities or government employees. All government agencies, especially the Ministry of Auditing and Control and the Ministry of the Interior, are tasked with combating corruption and unlawfulness, including through prosecution of government officials.

The law provides for public access to government information, but in practice requests for information routinely were rejected, often on the grounds that access is not a right.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

In violation of its own statutes, the government did not recognize any domestic human rights groups or permit them to function legally. Several human rights organizations continued to function outside the law, including the CCDHRN, the MCL, the Assembly to Promote Civil Society, and the Lawton Foundation for Human Rights. The government subjected domestic human rights advocates to violence, intense intimidation, and harassment.

The government occasionally staged acts of repudiation, mobilizing Communist militants and others to hold public rallies aimed at intimidating and ostracizing members of dissident organizations.

There are no officially recognized, independent NGOs that monitor human rights. The government refused to recognize or meet with any unauthorized NGOs who monitor human rights.

The government continued to deny human rights organizations and the International Committee of the Red Cross access to political prisoners and detainees. However, it invited Manfred Nowak, UN special rapporteur for torture and other cruel, inhuman, or degrading treatment or punishment, to conduct a mission to the country during the year, although a date had not been agreed upon by year's end.

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

The constitution prohibits discrimination based on race, gender, disability, or social status; however, racial discrimination occurred frequently.

*Women.*—The law criminalizes rape, including spousal rape, and the government enforced the law. The government did not release statistics during the year on arrests, prosecutions, or convictions for rape, and no reliable information regarding the incidence of rape was available.

The law does not recognize domestic violence as a distinct category of violence but prohibits threats and inflicting injuries, including those associated with domestic violence. Penalties for domestic violence are covered by the laws against assault and range from fines to prison sentences of varying lengths, depending on the severity of the offense.

Human rights advocates reported that violence against women was a problem, and police often did not act on cases of domestic violence. The press rarely reported on violent crime, and the government did not release data on the extent of domestic violence. However, the CCDHRN and the Cuban Chapter of the Latin American Federation of Rural Women reported that domestic violence was a serious problem and that there was a lack of programs to protect victims.

To raise awareness about domestic violence, the government continued to carry out media campaigns during the year. The CCDHRN believed that many women did not report acts of domestic violence because they feared doing so could trigger another attack. Government-sponsored NGOs continued efforts to establish more accurately the prevalence of domestic violence. In March several government-sponsored NGOs cooperated with foreign NGOs to hold a workshop on the prevention of gender violence.

Prostitution is legal for persons 16 and older, but pandering and economic activities facilitating prostitution, including room rentals, are illegal. Women engaged in prostitution were routinely arrested under loitering and "dangerousness" laws. The CCDHRN estimated that there were at least 500 women serving sentences for prostitution-related activities. Large numbers of foreign tourists visiting the country patronized prostitutes. Some police officers were suspected of providing protection to individuals engaged in prostitution.

The law provides penalties for sexual harassment, with potential sentences of three months' to five years' imprisonment. The law was applied most frequently to male supervisors "abusing their power" over female subordinates, according to the CCDHRN. The government did not release any statistics during the year on arrests, prosecutions, or convictions for offenses related to sexual harassment.

Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

The law provides that women and men have equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home, and pursuing a career. The law grants working mothers preferential access to goods and services. The law provides for equal pay for equal work, and women generally received pay comparable to men for similar work.

*Children.*—Citizenship is derived by birth within the country's territory.

There was no societal pattern of child abuse.

While there was underage prostitution, there were no reliable statistics available regarding its extent. The minimum age of consent for consensual sex is 16. There is no statutory rape law; however, penalties for rape increase as the age of the victim decreases, from four to 10 years' imprisonment if the victim is 14 or 15 years old, to 15 to 30 years' imprisonment, or death, if the victim is under 12. While the law does not specifically prohibit child pornography, it prohibits the production or



distribution of any kind of obscene graphic material, with possible sanctions ranging from three months to one year in prison and a fine.

The government, in cooperation with the British government and a British NGO, ran a center in Havana for the treatment of child sexual abuse victims, including victims of trafficking. The center employed modern treatment techniques, including the preparation of children to be witnesses in criminal prosecutions.

*Trafficking in Persons.*—The law prohibits most forms of trafficking in persons; however, there were reports that women were trafficked to Mexico, the Bahamas, and Europe. There were also unverified reports that children were trafficked within the country for purposes of sexual exploitation.

The nature and extent of trafficking were difficult to gauge due to the closed nature of the government and the lack of NGO reporting; however, some citizens who had successfully emigrated on “go-fast” vessels were forced to work as deckhands on subsequent smuggling trips to pay off smuggling debts and, according to foreign law enforcement officials, female migrants were sometimes raped or forced into prostitution by the traffickers. There was no information available regarding types of persons who engaged in trafficking or their methods.

The law provides penalties for anyone who “induces, cooperates with, promotes, or gets a benefit from the exercise of prostitution.” If the offense involves the victim’s entry or exit from the country, the penalty ranges from 20 to 30 years’ imprisonment. The law provides for penalties of seven to 15 years’ imprisonment for trafficking for forced labor, prostitution, and trade in organs, both domestically and internationally. The law provides for penalties of four to 10 years’ imprisonment for “inducing, in any way, or promoting another person to engage in prostitution or bodily commerce.” The sentence increases to 10 to 20 years if the perpetrator occupies certain positions of responsibility in the government, is in a position of authority over the victim, or uses violence or coercion to force the victim to engage in prostitution. The law also provides sentences of 20 to 30 years for anyone convicted of facilitating prostitution after a previous conviction or anyone accused of habitually promoting prostitution. A criminal court can levy damages, called “responsibilities,” and can assess damages to be paid through the court to the victim. The CCDHRN stated that in cases of internal trafficking, rather than bring a trafficking charge, the government might charge the individual with facilitating prostitution.

There were no reliable statistics on the number of traffickers prosecuted or convicted during the year. The CCDHRN stated that although it could not make reliable estimates, many individuals were serving sentences for facilitating prostitution, but it was unclear whether these individuals actually trafficked in persons or merely facilitated work by willing individuals. The CCDHRN reported that those prosecuted or convicted had entered the country from the United States, Mexico, or other nearby countries such as the Bahamas, but the government did not provide any information about these individuals.

There were no known investigations or prosecution of public officials for complicity in trafficking during the year, although some police officers reportedly accepted bribes in connection with prostitution.

The Ministries of Justice and Education, the PNR, and local governments were tasked with different facets of combating trafficking in persons and the problem of underage prostitution; no single entity had complete autonomy dealing with these problems. Police were responsible for investigating and arresting traffickers, the Ministry of Justice with prosecuting and incarcerating traffickers, and the Ministry of Education with helping women resettle into the community. No information was available concerning government assistance with international investigations of trafficking or the extradition of traffickers.

Although prostitution is not a crime per se, individuals who engaged in prostitution, including possible trafficking victims and children, often were treated as criminals, detained, and taken to rehabilitation centers that were not staffed with personnel who were adequately trained or equipped to care for trafficking victims.

There were no known government programs to prevent trafficking.

The Department of State’s annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—There was no known law prohibiting official discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. However, a Ministry of Labor and Social Security resolution gives persons with disabilities the right to equal employment opportunities and to equal pay for equal work. There was no official discrimination against persons with disabilities. There are no laws mandating accessibility to buildings for persons with disabilities, and in practice buildings and transportation rarely were accessible to persons with disabilities.

The Special Education Division of the Ministry of Education was responsible for the education and training of children with disabilities. The Ministry of Labor and Social Security was in charge of the Job Program for the Handicapped.

*National/Racial/Ethnic Minorities.*—Afro-Cubans often suffered racial discrimination, including frequent and disproportionate stops for identity checks and searches of backpacks and personal items, insults, and racial epithets. Afro-Cubans were disproportionately represented in neighborhoods with the worst housing conditions and were economically disadvantaged in part because of employment discrimination, notably in the tourist industry. The government made no efforts to address racial discrimination because it denied that any such discrimination existed. A former political prisoner stated that Afro-Cuban political prisoners were targeted for even worse treatment than the norm.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Officially, there was no discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. However, societal discrimination on the basis of sexual orientation or gender identity persisted, as police occasionally conducted sweeps in areas where gay men congregated, particularly along sections of Havana's waterfront. On March 24, police arrested 20 male transvestites in Central Havana. Some were reportedly detained for several hours and ordered to stop dressing in women's clothing. Gay rights organizations also reported cases of individuals discharged from their jobs due to their sexual orientation.

Mariela Castro, the president's daughter, headed the national Center for Sexual Education and continued to be outspoken in promoting gay rights. Despite these efforts, several nongovernment gay rights activists asserted that the government had done nothing to stop frequent cases of police brutality and harassment of LGBT persons. In August two LGBT activists were detained without charges for 13 days in connection with their efforts to plan a "Mr. Gay Cuba" competition. During the detention, police destroyed or damaged personal property and seized computer equipment used by the activists. The activists were held incommunicado for more than 24 hours. On September 3, the contest winner reported that he had been detained for several hours and threatened with expulsion from medical school as a result of his participation in the contest.

*Other Societal Violence or Discrimination.*—Some persons with HIV/AIDS suffered job discrimination or were rejected by their families. The government operated four prisons exclusively for inmates with HIV/AIDS; some inmates were serving sentences for "propagating an epidemic."

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law does not allow workers to form and join unions of their choice. The only legal labor union in the country was the CTC, whose leaders were chosen by the CP. The CTC's principal responsibility was to ensure that government production goals were met. It did not bargain collectively, promote worker rights or protect the right to strike. Virtually all workers were required to belong to the CTC, and promotions frequently were limited to CP members who took part in mandatory marches, public humiliations of dissidents, and other state-organized activities.

The government can determine that a worker is "unfit" to work, resulting in job loss and the denial of job opportunities. Persons were deemed unfit for their political beliefs, including their refusal to join the official union, or for trying to depart the country illegally. Several small independent labor organizations operated without legal recognition, including the Union of Bicycle Taxi Drivers, the Christian Labor Organization, and the National Independent Workers' Confederation of Cuba. These organizations also were subject to police harassment and infiltration by government agents and were unable to represent workers effectively or work on their behalf.

The government continued to incarcerate independent labor activists. Of the 75 dissidents jailed in 2003, seven were independent labor leaders and five remained in prison during the year, serving sentences of between 12 and 25 years.

The law does not provide for the right to strike, and no strikes were known to have occurred during the year.

*b. The Right to Organize and Bargain Collectively.*—Although provided for in the law, collective bargaining did not exist in practice. Because the only legal union is a government entity, antiunion discrimination, by definition, did not exist.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not prohibit forced or compulsory labor by adults. Convicts were often forced to work on farms or in

construction, agricultural, or metal work. Authorities also often imprisoned persons who refused to participate in mandatory work.

Compulsory and unpaid labor, called "voluntary work," was regularly organized to accomplish ordinary production or to complete other tasks such as repairs, cleaning, painting, and decorating or to mobilize a large agricultural labor force.

The law prohibits forced or compulsory labor by children, but the government required children to work in various situations (see section 7.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits forced and compulsory labor by children, and the Ministry of Labor and Social Security was responsible for enforcement. Nonetheless, the government required children to work in various situations.

Students at rural boarding schools were expected to participate in several hours of manual labor per day. Secondary school students were expected to devote up to 15 days of their summer vacation completing a variety of tasks ranging from farm labor to urban cleanup projects and were paid a small wage for this labor. Students in postsecondary institutions (technical schools, university preparatory schools, and agricultural institutes) were expected to devote 30 to 45 days per year to primarily agricultural work. Refusal to do agricultural work or some substitute could result in expulsion from school, although such expulsions rarely occurred.

The legal minimum working age is 17, although the labor code permits the employment of 15- and 16-year-old children to obtain training or to fill labor shortages. However, in practice it was rare that children under 17 worked. The labor code does not permit teenagers to work more than seven hours per day or 40 hours per week, or on holidays. Children ages 13 to 18 cannot work in specified hazardous occupations, such as mining, or at night.

There were no known government programs to prevent child labor or remove children from such labor.

*e. Acceptable Conditions of Work.*—The monthly minimum wage, which is established and enforced by the Ministry of Labor and Social Security (MLSS), was fixed at 225 pesos (approximately \$10). There is no fixed period for review or revision of the minimum wage, which was last revised in 2005. The MLSS did not engage in any public consultation with workers or employers prior to fixing the wage. The MLSS enforced the minimum wage requirement through offices at the national, provincial, and municipal level and did so effectively. The government supplemented the minimum wage with free education, subsidized medical care (daily pay is reduced by 40 percent after the third day of a hospital stay), housing, and some subsidized food. However, the amount of food provided by the government for each individual (through the ration card system) was reduced in June. The government stopped providing free lunches at some government ministries late in the year, replacing it with an additional payment of 15 pesos (\$0.62) per day. Even with subsidies, the government acknowledged that the minimum wage did not provide a decent standard of living for a worker and family. In practice even the average wage of 415 pesos per month (approximately \$18) combined with government subsidies did not provide a reasonable standard of living.

The standard workweek is 44 hours, with shorter workweeks in hazardous occupations, such as mining. The law provides workers with a weekly 24-hour rest period. These standards were effectively enforced. The law does not provide for premium pay for overtime or prohibit obligatory overtime but places a cap on the number of overtime hours that may be worked per week or per year. Compensation for overtime is paid either in cash at the regular hourly rate or in additional rest time, particularly for workers directly linked to production or services, and does not apply to management. Workers frequently complained that overtime compensation was either not paid or not paid in a timely manner. The law provides little grounds for a worker to refuse to work overtime. Refusal to work overtime could result in a notation in the employee's official work history that could imperil subsequent requests for vacation time.

Laws providing for workplace environmental and safety controls were inadequate and the government lacked effective enforcement mechanisms. The law provides that a worker who considers his life in danger because of hazardous conditions has the right to refuse to work in a position or not to engage in specific activities until such risks are eliminated; the worker remains obligated to work temporarily in whatever other position may be assigned at a salary provided for under the law.

Official reports noted an increase in work-related accidents and fatalities during the year, particularly in sectors where safety-related spending had fallen short in 2008. According to the former president of the Confederation of Independent Workers of Cuba, there were numerous violations of health and safety laws at worksites throughout the country, and conditions were particularly dangerous in the construc-

tion industry. Welders and persons who work with pesticides, he alleged, were rarely provided with protective equipment. Truck drivers for state firms frequently had to drive vehicles in poor repair. He stated that the CTC seldom informed workers of their rights and did not respond to or assist workers who complained about hazardous workplace conditions.

## DOMINICA

Dominica is a multiparty, parliamentary democracy with a population of approximately 72,500. Prime Minister Roosevelt Skerrit's Dominica Labour Party (DLP) prevailed over the opposition United Workers Party (UWP) by a margin of 18 seats to 3 seats in elections on December 18. Although outside observers found the elections generally free and fair, the opposition boycotted Parliament over alleged electoral abuses. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in a few areas, primarily poor prison conditions, corruption, domestic violence against women and children, and adverse conditions experienced by indigenous Kalinago (Carib).

### RESPECT FOR HUMAN RIGHTS

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

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

The case of two police officers charged with murder for shooting and killing a man in 2007 was still pending prosecution 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.*—While the constitution prohibits such practices, there were reports that police used excessive force while making arrests, including documented cases in which the police shot victims.

There was no new information available about the cases in which police shot and injured persons in 2007, the 2006 beating by police that went before a civil court, nor about a pending case from 2005.

*Prison and Detention Center Conditions.*—Prison conditions were poor. Conditions remained unsanitary, and many buildings were in disrepair. The country's single prison held fewer prisoners than its designed capacity.

Juvenile detainees were held with adults, and pretrial detainees were held with convicted prisoners.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred during the year.

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

*Role of the Police and Security Apparatus.*—The prime minister's office oversees the Dominica Police, the country's only security force. The force of approximately 400 officers effectively carried out its responsibilities to maintain public order. The police have a formal complaint procedure to handle allegations of excessive force or abuse by police officers. Corruption was not a problem within the police force.

The police Internal Affairs Department investigates public complaints against the police and provides officers with counseling. There were no cases of misconduct filed during the year.

*Arrest Procedures and Treatment While in Detention.*—The police apprehend persons openly with warrants issued by a judicial authority. The law requires that the authorities inform persons of the reasons for arrest within 24 hours after arrest and bring the detainee to court within 72 hours. This requirement generally was honored in practice. If the authorities are unable to bring a detainee to court within the requisite period, the detainee may be released and rearrested at a later time. There is a functioning system of bail. Criminal detainees were provided prompt access to counsel and family members.

Lengthy detention before trial was a problem due to judicial inefficiency and staff shortages. On average prisoners remained in remand status for more than three months.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

The judicial system is composed of the High Court with two judges, and four magistrates based in the capital city of Roseau who periodically travel around the country. Appeals can be made first to the Eastern Caribbean Court of Appeal and then to the Privy Council in the United Kingdom.

Inadequate police staffing for investigations, together with a lack of judges, resulted in severe backlogs and other problems in the judicial system.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. There are public trials by jury, and defendants have the right to be present, to consult with an attorney in a timely manner, and to confront or question witnesses. Criminal defendants are presumed innocent until proven guilty, are allowed legal counsel, and have the right to appeal. Courts provide free legal counsel to juveniles unable to obtain their own counsel, regardless of the crime committed, and to the indigent, but only in cases involving serious crimes. Defendants and their attorneys have access to government-held evidence relevant to their cases.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent, impartial judiciary in civil matters where one can bring lawsuits seeking damages for a human rights violation.

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

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In the December election campaign, the opposition claimed that the government blocked its access to the main government-owned radio station, and purchased all the advertising time on the largest private station, restricting the opposition to a smaller private station that only reached about one quarter of the country.

Prime Minister Skerrit ceased pursuing the libel suit he filed against the Times newspaper in 2007.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was largely available in homes, offices, and Internet cafes in urban areas, but infrastructure limitations restricted Internet access in villages. According to the International Telecommunication Union, there were 41 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

The government requires all religious organizations to register.

*Societal Abuses and Discrimination.*—Rastafarians complained that the use of marijuana, an aspect of their religious rituals, was illegal and that their members were victims of societal discrimination, especially in hiring. There is a small Muslim community and no organized Jewish community; there were no reports of discrimination against either community or of any anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The only internal restriction on movement applies to the Carib Reserve area. Since all the land is collectively owned by the community and managed by the Carib Council, for a newcomer to live in the territory, the council would have to grant permission to use the land.

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

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a legal or procedural system for providing protection to refugees. The law provides for asylum or refugee status, but the government did not grant refugee status or asylum during the year.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

Although no known cases occurred, the government was prepared to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In parliamentary elections held on December 18, the ruling DLP won 18 seats in the House of Assembly, defeating the UWP, which won three seats. The race was extremely close, with three constituencies decided by five votes or less. The opposition alleged that the government unconstitutionally denied it media access, delayed any type of voter identification system, and provided direct and indirect incentives to voters, particularly by flying in citizens residing elsewhere. The opposition decided to boycott Parliament, in hope of pressuring the government to call new elections with increased protections in place.

The Caribbean Community (CARICOM) and the Organization of American States (OAS) both sent teams of election observers. Both organizations declared the election to be fair and transparent, despite allegations from the opposition and the non-governmental organization (NGO) community claiming that basic democratic principles were not upheld. The lack of a voter identification card allowed individuals to vote by simply stating their name, address, and occupation, without having to show any documentation to prove their identity. Voters are required to return to the country every five years to maintain their right to vote, but there were limited ways to check the travel record of those residing abroad.

Political parties could generally operate without restrictions. The opposition brought court cases alleging that the government restricted media access of the opposition candidates, in addition to other complaints.

The new cabinet had not been named by year's end. In the pre-election government, there were six women in the 31-seat legislature: four elected to the House of Assembly and two appointed members to the 10-seat Senate, three of whom served as cabinet ministers. A woman also served as attorney general, a cabinet position. The speaker of the house was a woman.

The parliamentary representative for the constituency that includes the Carib Territory was a Carib, who served concurrently as minister for Carib affairs in the pre-election government.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively. The World Bank's worldwide governance indicators reflected that government corruption was a problem. There were multiple reports in the press and by NGOs of corruption in the government, including accusations that some government officials engaged in property speculation. These allegations focused upon the Layou River tourism development, misuse of the economic citizenship program, improper ambassadorial appointments, and no-bid government contracts. There were also accusations that government ministers received unreported money from foreign sources.

In November 2008 a government commission to implement the 2004 Integrity in Public Service Act began operating to minimize government corruption. The act requires government officials to account annually for their income and assets and those of their immediate family, as well as any gifts they have received. The commission is required to examine each declaration and determine its validity. This declaration is private, and the only disclosure is whether the commission has received it and if it has been deemed valid. If misrepresentation is found, the official can be liable for a fine of EC\$20,000 (\$7,500) or two years' imprisonment, with additional penalties for bribery, possession of unaccounted property, and other provisions. The public submitted multiple claims, but the commission decided against investigating any of them. The chairman stated that, since the alleged crimes occurred before the commission's establishment, they did not fall under its legal mandate.

The Financial Intelligence Unit is the chief government agency responsible for identifying and combating government corruption. In addition the police force and customs service have internal watchdog offices.

The law does not provide for public access to government information, and the government did not provide routine access in practice. The government maintained a Web page, where it posted limited information such as directories of officials and a summary of laws and press releases. The government budget and an audit of that budget were both publicly available on the Web site.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no government restrictions on the formation of local human rights organizations, although no such groups existed. Several advocacy groups, such as the Association of Disabled People, the Dominica National Council of Women (DNCW), and a women's and children's self-help organization, operated freely and without government interference.

There were no requests for investigations of human rights abuses from international or regional human rights groups. A parliamentary commissioner has responsibility to investigate complaints against the government.

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

The law specifically prohibits discrimination based on race, gender, place of origin, color, and creed, and the authorities generally respected this prohibition in practice.

*Women.*—The law criminalizes rape but not spousal rape. Police were not reluctant to arrest or prosecute offenders; whenever possible, female police officers handled rape cases. Although the maximum sentence for sexual molestation (rape or incest) is 25 years' imprisonment, the normal sentence given was five to seven years, except in the case of murder. The Bureau of Gender Affairs of the Ministry of Community Development, Social Services, and Gender Affairs assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The bureau also coordinated interagency efforts to collect data, advocate policy changes, and provide programs for the empowerment of women.

Domestic violence cases were common. Although no specific laws criminalize spousal abuse, spouses could bring charges against their partners for battery. However, victims were often reluctant to press charges due to their reliance on financial assistance of the abuser. Shelters were operated in private homes, in order to preserve the privacy of the victims, but the location of a shelter was hard to keep secret. The law allows abused persons to appear before a magistrate without an attorney and request a protective order. The court also may order the alleged perpetrator to be removed from the home to allow the victims, usually women and children, to remain in the home while the matter is investigated. However, inadequate police resources made enforcement of these restraining orders difficult. Police officers continued to receive training in dealing with domestic abuse cases.

The Bureau of Gender Affairs reported that both men and women sought assistance in dealing with domestic violence. Despite the range of programs offered, there were insufficient support systems to deal with the problem. In addition to counseling services offered by the DNCW and the bureau, there was a legal aid clinic, and the government's legal department offered assistance as well.

The DNCW provided preventive education about domestic violence and maintained a shelter where counseling and mediation services were available daily. Due to a shortage of funding, the organization could permit persons to stay at the shelter only for several days at a time; however, if needed, additional housing was provided in private homes for up to three weeks. Because of the country's small size, abusive spouses commonly found and visited the victims at the shelter, making private homes a safer option in many cases. The Catholic Church continued to be active in educating the public about domestic violence.

Prostitution is illegal, but authorities rarely enforced laws against it. There were anecdotal reports but no evidence to support the claim of trafficking in persons for commercial sexual exploitation.

The law does not prohibit sexual harassment, and it remained a problem. Government enforcement was not an effective deterrent.

There were no restrictions on reproductive rights, as women were free to choose the number, spacing and timing of their children. Access to contraception and treatment for sexually transmitted diseases, including HIV/AIDS, was widely available.

Women enjoy the same rights as men, and the ministry promotes the legal rights of women. While there was little open discrimination against women, instances of cultural discrimination existed. Also, property ownership continued to be deeded to heads of households, who were usually male. When the male head of household dies

without a will, the wife may not inherit or sell the property, although she may live in it and pass it to her children. The law establishes pay rates for civil service jobs without regard to gender. Although there were some women in managerial or high-level positions, most women worked as shopkeepers, nurses, or in education, and the unemployment rate for women was high.

The Bureau of Gender Affairs is charged with promoting and ensuring the legal rights of women. The bureau provides lobbying, research, support, counseling, training, and education services. The bureau worked with the DNCW and other organizations to help the government, NGO, and police sectors coordinate work on women's issues, particularly in data collection and information sharing.

*Children.*—Citizenship is derived by birth to a Dominican parent. Birth certificates were provided to the parents on a timely basis.

Child abuse continued to be a pervasive problem, both at home and at school. The Welfare Department of the Ministry of Community Development and Gender Affairs handled reports of child abuse; 80 percent of the victims were girls. The Welfare Department also assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reported all severe cases of abuse to the police. Lack of staff and resources continued to hamper enforcement of children's rights laws.

There were allegations of irregular adoptions of children from the Carib territory, especially to the neighboring French islands.

The age of consent for sexual relations is 16 years. No specific laws prohibit commercial sexual exploitation of children, but such activity could be prosecuted under laws against prostitution or trafficking. There was no information available about laws dealing with child pornography.

*Trafficking in Persons.*—The law prohibits trafficking in persons, specifically involving forced labor, commercial sexual exploitation, and smuggling illegal migrants. There were no confirmed reports that persons were trafficked to, from, or within the country.

However, there were anecdotal reports that women from the Dominican Republic, Haiti, South America, Eastern Europe, and Asia entered the country irregularly to work in underground strip clubs that proliferated in the outskirts of Canefield or Portsmouth, as well as some that opened in Roseau. These women faced cultural and language barriers that made finding assistance difficult. The Ministry of National Security did not believe that there was widespread trafficking in persons but acknowledged there might be a few isolated incidents. There were no reports of trafficking of children.

The DNCW and other activists believed that there may be some trafficking of women for prostitution but acknowledged it was hard to prove as most of the women in the sex trade were afraid to come forward, fearing deportation. An NGO that interviewed commercial sex workers as part of an HIV/AIDS awareness campaign found that most appeared to have entered the country for economic reasons and began working in prostitution thereafter.

Persons convicted of trafficking are subject to a fine of EC\$100,000 (approximately \$37,500) and up to seven years in prison, but there were no known prosecutions for trafficking in recent years.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—Although the law does not specifically prohibit discrimination against persons with disabilities, there was no reported formal discrimination against them in employment, education, access to health care, or the provision of other state services. However, many employers refused to hire persons with disabilities, and unemployment among them was very high.

There is no legal requirement mandating access to buildings for persons with disabilities.

There are no programs in school for children with learning or other disabilities, most of whom did not complete educational programs due to the difficulty involved in simply getting to and from school and in keeping up with the curriculum.

*Indigenous People.*—There was a Kalinago, or Carib, population, estimated at about 3,000 persons, most of whom lived in the 3,782-acre Carib Territory. The law establishing the Carib Territory does not delineate clearly its territorial boundaries. There were four preschools and two primary schools in the Carib Territory and two secondary schools in nearby communities attended by Kalinago children; a new school was under construction in Salybia. Despite these schools, however, the Carib language has almost completely disappeared, and students elsewhere in the country are not taught about pre-Columbian history or the role played by Caribs in shaping the country's society. The Ministry of Education covered tuition for Kalinago stu-



dents at the Dominica State College and awarded scholarships to Kalinago students for study throughout the Caribbean.

The Carib Act states that any child of a Kalinago is also Kalinago. Non-Kalinagos may become Kalinagos if they are invited to live in the Carib Territory and do so continuously for 12 years.

Every five years Kalinagos over the age of 18 who reside in the territory may vote for the chief and six members of the Council of Advisors. They also are eligible to vote in national elections. In national elections, persons who are registered in the district but reside outside, either in another part of the country or internationally, are still allowed to vote in the Carib Territory. A Kalinago headed the Ministry of Carib Affairs and was elected Chief of the Council of Advisors in August.

The Kalinago people continued to suffer from low levels of unofficial and societal discrimination. Unemployment in the territory generally was higher than in the rest of the country, and mean income was below the national mean. There are few jobs in the territory, because of the decline of the agricultural sector and the inability to obtain bank financing due to the lack of collateral in terms of privately owned land. Many Kalinagos who move to the capital city of Roseau did not report any significant discrimination. The vast majority of Kalinagos have intermarried, and it is not always easy to identify someone as Kalinago.

Although the government set aside funds for a community aid bank for the Kalinagos, those funds were diverted into the Salybia school and housing project sponsored by Venezuela. There were complaints that the money originally allocated for the bank was greater than the amount being used on those two projects.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law criminalizes consensual homosexual relations. Although no statistics were available, anecdotal evidence suggested that societal discrimination against gays and lesbians was quite common in the socially conservative society. There were very few openly gay men or lesbians.

*Other Societal Violence or Discrimination.*—The government and the Dominica Planned Parenthood Association initiated programs designed to discourage discrimination against HIV/AIDS-infected persons and those living with them.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—Workers exercised the legal right to organize and choose their representatives. Unions represented approximately 13 percent of the total work force; approximately half of government workers were unionized, but less than 30 percent of private sector workers were unionized. The informal sector accounts for close to 50 percent of total employment, and workers in that sector are not unionized. There were six unions: the Public Service Union representing the public sector, the teachers union representing teachers in both public and private schools, and four competing unions for the private sector. There was no labor confederation. Prison guards and firefighters do not have a staff association or quasi-union such as they have in neighboring countries, but the police welfare association functions as a quasi-union.

The law provides for the right to strike, and workers exercised this right in practice. However, emergency, port, electricity, telecommunications, and prison services, as well as banana, coconut, and citrus fruit cultivation industries, were deemed essential, which effectively prohibited workers in these sectors from going on strike. However, in practice essential workers have gone on strike and did not suffer reprisals. The procedure for essential workers to strike is quite cumbersome, involving giving appropriate notice and submitting the grievance to the labor commission for possible mediation. Most such actions were resolved through mediation through the office of the labor commissioner.

*b. The Right to Organize and Bargain Collectively.*—Unions have legally defined rights to organize workers and to bargain with employers. Workers exercised this right, particularly in the nonagricultural sectors of the economy, including in government service. Government mediation and arbitration were also available; few disputes escalated to industrial action. A company, a union representative, or an individual can request mediation by the labor commissioner's office. Most of the time the labor commissioner was able to resolve the matter. In the agricultural sector most workers were not unionized, as most agricultural work is performed on small family owned farms. With the collapse of the large-scale banana plantations, most agricultural workers no longer work for larger plantations.

The law provides that employers must reinstate workers who file a complaint of illegal dismissal, which can cover being fired for engaging in union activities, but also covers other grounds of dismissal, and employers generally did so in practice.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although two laws prohibit employment of children, one law defines a “child” as under age 12 and the other as under age 14. The government defined 15 years as the minimum age for employment and enforced this standard in principle. Education is compulsory until age 16, and most children attend school until that age. Children between the ages of 12 and 14 were allowed to work only in certain family enterprises such as farming. Safety standards limit the type of work, conditions, and hours of work for children over the age of 14. The government effectively enforced these standards.

*e. Acceptable Conditions of Work.*—The minimum wage law, prepared after tripartite consultations, established a base wage of EC\$5.00 (approximately \$1.87) per hour for all public and private workers. The minimum wage was last updated in June 2008 and varies according to category of worker, with the lowest minimum wage set at EC\$4.00 (\$1.50), and the maximum at EC\$5.50 (\$2.06) per hour. The minimum wage did not provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earned more than the legislated minimum wage as prevailing wages were much higher than statutory minimum wages. Enforcement was the responsibility of the labor commissioner.

Labor laws provide that the labor commissioner may authorize the employment of a person with disabilities at a wage lower than the minimum rate to enable that person to be employed gainfully. In practice, even persons with disabilities were generally paid more than the minimum, and the labor commissioner had not authorized sub-minimum wages for the last few years.

The standard legal workweek is 40 hours in five days. The law provides overtime pay for work above the standard workweek; however, excessive overtime is not prohibited. The government effectively enforced these standards.

The Employment Safety Act provides occupational health and safety regulations that are consistent with international standards. Inspectors from the Environmental Health Department of the Ministry of Health conducted health and safety surveys. The Department of Labor conducted inspections that prescribe specific compliance measures, impose fines, and can result in prosecution of offenders. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment, and the authorities effectively enforced this right.

## DOMINICAN REPUBLIC

The Dominican Republic is a representative constitutional democracy with a population of approximately 9.7 million, plus an estimated 900,000 to 1.2 million undocumented immigrants, mostly Haitians or their descendents. In May 2008 voters elected President Leonel Fernandez of the Dominican Liberation Party (PLD) for a third term, and in 2006 elections the PLD won majorities in both chambers of Congress. Impartial outside observers assessed both elections as generally free and fair. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently.

Although the government’s human rights record continued to improve, serious problems remained: unlawful killings; beatings and other abuse of suspects, detainees, and prisoners; poor to harsh prison conditions; arbitrary arrest and detention of suspects; a large number of functionally stateless persons; widespread corruption; harassment of certain human rights groups; violence and discrimination against women; child prostitution and other abuses of children; trafficking in persons; severe discrimination against Haitian migrants and their descendents; violence and discrimination against persons based on sexual orientation; ineffective enforcement of labor laws; and child labor.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, there were numerous reports that security forces were involved in many killings that were unlawful, unwarranted, or involved excessive use of force.

According to the Attorney General’s Office, police killed 346 persons in 32 jurisdictions in the course of duty during the year, a decrease from 455 police killings reported in 2008. Lack of training, accountability, and inadequate supervision by superiors contributed to these police killings. Human rights nongovernmental organi-

zations (NGOs) asserted that, as in previous years, the police continued to employ unwarranted deadly force against criminal suspects.

In May eyewitnesses reported that a police officer shot and killed 19-year-old Jose Gomez Taveras at point-blank range after forcing him to kneel, even though he seemed cooperative.

In October five police officers shot and killed two suspected kidnappers in Guayabin, Montecristi Province, in what the officers asserted was an "exchange of gunfire." In November the police chief established a three-member investigatory committee headed by a special prosecutor to investigate the incident. The committee rejected the officers' assertion and concluded that the officers, along with a marine sergeant accomplice, executed the suspects. The five officers and the marine sergeant were free on bail and awaiting their trial at year's end.

On October 17, a police officer shot and killed 23-year-old Lissandro Cuevas Ferreras, who was handcuffed while waiting for medical attention at a hospital in San Cristobal. Authorities detained the officer involved and initiated an investigation.

There were reports of use of excessive force throughout the year against demonstrators and protesters by members of the security forces. Security forces routinely dispersed protesters with tear gas and water cannons, as well as with live fire. On July 17, during a demonstration in Santo Domingo, police opened fire on a group of protesters, and two persons were killed, including a minor. Ballistics tests confirmed an officer's gun fired the bullet that killed the boy, and authorities brought charges against the officer involved, who awaited trial at year's end.

In July a court convicted and sentenced to 12 years in prison the two officers involved in the May 2008 deaths of four civilians and one police officer in Boca Chica.

There was no information available about the police killing of three minors who were suspected in a store robbery in May 2008.

There were no known developments in the case of the 2008 police killing of a minor during a demonstration or the police killing of a 17-year-old playing basketball near a demonstration.

Despite previous reports that the inspector general had named a commission to investigate the 2007 police killing of Rafael Concepcion while in police custody and that the police officers involved in the shooting had been detained, there was no information that anyone was assigned to investigate or that any charges were filed.

On a number of occasions reported in the media, citizens attacked alleged criminals in vigilante-style reprisals for theft, robbery, or burglary. These incidents were attributed to an increase in crime and the inability of security forces to stem or combat these crimes.

In August a mob in the province of Azua killed a Dominican and a Haitian national and afterwards set both bodies on fire in retaliation for an alleged murder of a community resident. In October a group of armed assailants attacked and killed three Haitians, including two minors, who were preparing charcoal from illegally harvested trees near Jimani. Judicial authorities charged two men as accomplices in the murder of the three Haitians, and an investigation continued at year's end.

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

Despite the Public Ministry's 2007 announcement that it would reopen the investigation, there were no developments, and none were expected, in the case of journalist Narciso Gonzalez, who disappeared in 1994 after allegedly criticizing the government.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits torture, beating, and physical abuse of detainees and prisoners, members of the security forces, primarily police, continued such practices. The Attorney General's Office reported that the police were involved in incidents that resulted in maiming or severely injuring unarmed civilians. However, improvements in oversight, awareness, and accountability led to a perception that the police were making efforts to reduce incidents of physical abuse of detainees. Nonetheless, human rights organizations stated that uniformed vigilantism persisted on a non-lethal level. There were also reports of use of excessive force against demonstrators and protesters by members of the security forces.

The law provides penalties for torture and physical abuse, including sentences from 10 to 15 years in prison. Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. Authorities sent abuse and torture cases to civilian criminal courts rather than police tribunals.

Senior police officials treated the prohibition on torture and physical abuse seriously, but lack of supervision and training throughout the law enforcement and corrections systems undercut efforts to contain the problem. Although observers agreed

that conditions improved somewhat due to an increase in professionally trained corrections officers, human rights groups and prisoners reported physical abuse of detainees, most commonly beatings. In July the president of the National Commission on Human Rights, an NGO, made a formal complaint to the chief of police, alleging that torture had been used as a method of interrogation in several instances throughout the country.

On April 3, an arrestee reported that a police officer forced a potato into his mouth, put a bag over his head, and beat him with a phone book. On September 27, in another incident, police forced an onion into a suspect's mouth, pulled a bag over his head, and beat him with a glass bottle.

There were no developments in the May 2008 beating of a missionary who refused to remove her clothing for examination at the Najayo prison or in the 2007 complaint by the National Commission on Human Rights against the police with regard to the case of Javier Vicente Reyes Segura.

Lawyers from the National District prosecutor's office monitored the investigative process to ensure that detainees' rights were respected in high-volume police stations and in several National Drug Control Directorate (DNCD) offices. Assistant prosecutors at times reportedly acquiesced in improper police practices rather than insisting they be changed to conform to constitutional standards.

*Prison and Detention Center Conditions.*—While prison conditions generally ranged from poor to extremely harsh, the government made advances with newer "model prisons" known as Correctional and Rehabilitation Centers (CRCs) where prisoners experienced improved conditions in comparison to the other facilities. According to the Office of the Attorney General, there were 18,701 prisoners and detainees held in 36 prisons, with an intended capacity of approximately 10,000. The new CRCs held 2,864 prisoners, while 15,837 prisoners were held in conventional prisons. Virtually all prisons, other than the CRCs, experienced extreme overcrowding. La Victoria prison, the largest in the country, held more than 4,000 prisoners in a facility designed for 1,300. This severe overcrowding led to an informal market wherein prisoners paid as much as 40,000 pesos (approximately \$1,200) to acquire a bed. The cell blocks consisted of makeshift bed cubicles, stacked three high, in a densely packed warren of cells. Air circulation was a problem, and the danger of a fire outbreak was high.

Reports of mistreatment and inmate violence in prisons were common, as were reports of harassment, extortion, and inappropriate searches of prison visitors. Health and sanitary conditions were poor, and some prisons were out of the control of authorities and effectively run by criminal gangs of armed inmates. In May a riot to protest lack of water at the Santiago juvenile detention center resulted in a fire in which two prisoners died; in two other prisons that same month, violence among prisoners led to the injury of at least 11 prisoners. On September 2, seven prisoners in La Romana prison were injured during what was reported as an altercation between rival gangs; another report suggested that the incident had been a prisoners' riot to protest prison conditions, including water shortages. A common sentiment among prison wardens at conventional prisons was that while the wardens may control the perimeter, inside the prison the inmates often made their own rules and had their own system of justice. In general this situation differed from the CRCs, where specialized prison guards increased control of prison areas. The attorney general reported that the incidence of corruption within the CRCs remained minimal.

Budget allocations for necessities such as food, medicine, and transportation were insufficient. Most inmates begged for or purchased food from persons in the vicinity of the prison or obtained it from family members. Prisoners were often not taken to their trials unless they paid bribes to the guards, and visitors often had to bribe prison guards in order to visit prisoners. Similarly, detainees had to pay bribes to be allowed to attend vocational training offered at some facilities. Prison officials accepted money in exchange for a recommendation that a prisoner be furloughed or released for health reasons. There were credible allegations that prisoners could obtain early release on parole for a bribe. Prisons often did not provide adequate medical care to inmates. Prisoners immobilized with HIV/AIDS or who had terminal illnesses were not transferred to hospitals.

The National Directorate of Prisons reported at least 52 deaths in prisons; 38 of the reported deaths in prison were related to various illnesses, including tuberculosis and HIV. Other deaths and injuries were reported as the result of violence, and guards reportedly shot and killed two prisoners who were attempting to escape.

Although a warden who reports to the attorney general was technically responsible for running each prison, in practice police or military officers (generally appointed for a period of only three to six months and responsible for providing security) were usually in charge of most prisons. Approximately 80 percent of prison

guards were military or police officers rather than civilian correctional officers, who were employed exclusively at the CRCs.

There were continued allegations of drug and arms trafficking, prostitution, and sexual abuse within the prisons. There continued to be special sections within prisons where police officers convicted of criminal activity, including a few known human rights abusers, were interned.

As of September, 12 CRCs were built or converted from conventional prisons, while still more were scheduled to open in the near future. However, this improvement for 16 percent of the prisoners came at the expense of others in the system, because when a facility was converted to a model prison, excess inmates were transferred to other locations, principally La Victoria, increasing the strain on that already-overcrowded facility.

Female inmates generally were separated from male inmates. Half of all female inmates were held in prisons only for women. Conditions in the prison wings for women generally were better than those in prison wings for men. Female inmates, unlike their male counterparts, were prohibited from receiving conjugal visits. Those who gave birth while incarcerated were permitted to keep their babies with them up to a year.

Juveniles were processed using specialized juvenile courts and, with increasingly rare exceptions, were held in juvenile facilities.

Because of serious overcrowding, authorities at many smaller facilities, such as Higuey prison, did not attempt to segregate prisoners according to the severity of criminal offense.

Pretrial detainees were held together with convicted prisoners. The Directorate of Prisons estimated that 62 percent of the prisoners were in preventive custody, awaiting trial. This figure was difficult to verify, as many prisoners were considered to be in preventive custody after an initial conviction because they were awaiting an appeal. The law states that the pretrial waiting period should not exceed three months, but it can be extended up to a year in certain cases.

There were also insufficient efforts to segregate and provide services to the mentally ill, especially at conventional prisons.

The government permitted prison visits by independent human rights observers and the media, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—Although the criminal procedures code (CPC) prohibits detention without a warrant unless a suspect is apprehended in the act or in other limited circumstances, arbitrary arrest and detention continued to be problems. By law authorities may detain a person without charges for up to 48 hours. There were numerous reports of individuals held and later released with little or no explanation for the detention.

*Role of the Police and Security Apparatus.*—The National Police, the National Department of Intelligence (DNI), the DNCD, the Airport Security Authority (CESA), the Port Security Authority (CESEP), the Border Authority (CESFRONT), and the armed forces (army, air force, and navy) form the security forces. The Secretariat of Interior and Police is responsible for making policy decisions affecting the police force. The military, CESA, CESEP, and CESFRONT are under the secretary of the armed forces; the DNI and the DNCD, which have personnel both from the police and military, report directly to the president.

In 2008 the police chief announced a zero tolerance policy for human rights abuses. Police officers were fired or prosecuted through the criminal justice system when found to have acted outside of established police procedures. In March a special police commission was designated to investigate police officers who had alleged links to narcotraffickers. The police arrested and prosecuted 31 police officers from Puerto Plata and 20 officers from Bonao.

The Internal Affairs Unit effectively investigated charges of gross misconduct by members of the National Police. These cases involved physical or verbal aggression, death threats, improper use of a firearm, muggings, and theft. By December Internal Affairs had conducted 2,664 investigations that resulted in 332 dismissals and 985 sanctions.

On many occasions police officials attempted to solicit bribes from individuals facing arrest or imposition of fines. Local human rights observers reported on a few occasions that immigration and police authorities rounded up undocumented construction workers and other manual laborers of Haitian origin or descent to extort money from them. NGOs alleged corruption among the military and migration officials stationed at border posts and noted that these officials sometimes were complicit in the illegal transit of Haitian workers into the country.

The Institute of Human Dignity, a branch of the National Police, conducted training courses for police officers. In the revised police curriculum, both new and exist-

ing officers received human and civil rights training as well as increased technical training. In addition the Police Academy trained police officers to engage suspects with less lethal force.

Training for military and DNCD enlisted personnel and officers included instruction on human rights. The Military Institute of Human Rights offered diploma courses in human rights and regularly sent representatives to border units to conduct mandatory human rights training. The Secretariat of the Armed Forces provided human rights training or orientation to 1,266 officers of various ranks as well as civilians during the year.

*Arrest Procedures and Treatment While in Detention.*—The constitution provides that an accused person may be detained for up to 48 hours without a warrant before being presented to judicial authorities. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held. Any prisoner detained for more than 48 hours without being formally charged is entitled to file a motion for habeas corpus. The presiding judge at the habeas corpus hearing is empowered to order the prisoner's release when the prisoner has been detained for more than 48 hours without being formally charged or when there is insufficient proof of a crime to warrant further detention. The judge's decision to release a prisoner is subject to appeal by the district attorney.

The law also permits police authorities to apprehend without an arrest warrant an accused person when the person is caught at the moment of committing a crime or could be reasonably linked to a crime (e.g. escaped from prison or detention facility, hot pursuit, etc.).

The CPC establishes a more restrictive 24-hour time limit in which to make formal charges, which was generally observed.

Despite the foregoing provisions, at times the police detained suspects for investigation or interrogation longer than 48 hours. Police often detained all suspects and witnesses in a crime and used the investigative process to determine the individuals who were innocent and merited release and those whom they should continue to hold. Even so, successful habeas corpus hearings reduced these abuses significantly.

Although previously granted only to a few defendants, bail became more common under the new CPC, which requires judicial review of detentions at an earlier point in a criminal case, but the system proved inadequate to prevent defendants from going into hiding. In some cases observers suspected that the granting of bail and subsequent disappearance of the suspect were due to corruption or inefficiencies within the judicial system.

The law requires provision of counsel to indigent defendants, but most detainees and prisoners unable to afford defense services did not have prompt access to a lawyer. The National Office of Public Defense provided legal advice and representation to indigent persons, but resource constraints resulted in inadequate levels of staffing. Nationwide there were 16 public defense offices, with 184 public defenders, 72 part-time defense lawyers, and 23 investigators. The government continued its program to train public defenders on relevant changes caused by implementation of the CPC and expanded training for prosecutors.

Police continued the practice, albeit less frequently than in previous years, of making sporadic sweeps or roundups in low-income, high-crime communities, during which they arrested and detained individuals without warrants, allegedly to fight delinquency. During these sweeps police arrested large numbers of residents and seized personal property allegedly used in criminal activity.

Many suspects endured long pretrial detention. Under the CPC the judge has authority to order a detainee to remain in police custody between three months and one year. According to the Directorate of Prisons, average pretrial detention typically was between three and six months. Time served in pretrial detention counted toward completing a sentence. The Public Ministry continued implementing an automated case-tracking system that permitted prosecutors to adhere more effectively to pretrial detention regulations and thereby reduce the number of occasions when the CPC time limits were exceeded. This system covered 15 of 32 district attorney offices.

Juveniles at the Department for Minors at the Villa Juana police station commonly were held well beyond the 12-hour limit for sending the case to the district attorney's office. The law prohibits interrogation of juveniles by the police or in the presence of police. Prosecutors and judges handled juvenile interrogations.

The failure of prison authorities to produce the accused for court hearings caused a significant percentage of trial postponements. Inmates often had their court dates postponed because they were not taken from prison to court or because their lawyer, codefendants, or witnesses did not appear. The government did not provide funding to transport all defendants between prison and court. Despite additional protections for defendants in the CPC, in some cases the authorities continued to hold inmates

beyond the mandated deadlines even though there were no formal charges against them.

The judiciary has judicial service offices in La Vega, Moca, and Puerto Plata. These offices allowed urgent matters in need of a judge (such as obtaining an arrest or search warrant and conducting arraignments) to be attended to 24 hours a day. These judicial service offices were part of an effort to increase efficiency and reorganize the courts so they operate in conformance with the CPC. This reorganization proceeded at a steady, if not rapid, pace.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, despite increasing independence in the judiciary, instances of political influence in decision making were still evident. Interference by public entities, when it occurred, tended toward public pronouncements regarding active cases and selective prosecution, as opposed to direct intervention in existing cases. On occasion, however, it appeared that judges in superior courts attempted to influence lower court decisions. In addition, corruption continued to be a serious problem (see section 4).

The judiciary consists of a 16-member Supreme Court, various appeals courts, courts of first instance, and justices of the peace. There are specialized courts that handle tax, labor, land, and juvenile matters. A Magistrate's Council selects Supreme Court justices based on factors such as general reputation and time in service, although the political composition of the council leaves open the possibility for patronage appointments. Lower court judges are appointed following passage of rigorous entrance examinations, completion of a training program, and successful completion of an examination.

Public defenders and public prosecutors were typically well qualified; their particular organizations required passage of objective examinations for employment.

*Trial Procedures.*—The law provides for a presumption of innocence, the right of appeal, and the right to confront or question witnesses. The law establishes a citizen's right not to be deprived of liberty without trial or legal formalities or for reasons other than those provided by law, the right against self-incrimination, and the right to a defense in an impartial and public trial. Defendants have the right to remain silent. The law also provides for a public defense attorney to every person that cannot afford an attorney.

There were credible allegations that authorities violated these rights in some cases, but there was improved adherence to due process as authorities became increasingly familiar with the modifications to the CPC. The district attorney's office must notify the defendant and attorney about the criminal charges as well as the evidence the district attorney's office will present in court. Defendants and attorneys have access to government-held evidence, but only after the preliminary hearing, when the indictment is approved by the judge.

Military and police tribunals shared jurisdiction over cases involving members of the security forces. While the tribunals have jurisdiction over cases involving breaking internal rules and regulations, civilian criminal courts handled cases of killings and other serious crimes allegedly committed by members of the security forces.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There are separate court systems for claims under criminal law, commercial and civil law, and labor law. Commercial and civil courts reportedly suffered lengthy delays in adjudicating cases, although their decisions were generally enforced. As in criminal courts, undue political or economic influence in civil court decisions remained a problem.

Citizens had recourse to the remedy of "amparo," an action to seek redress of any violation of a constitutional right, including violations by judicial officials. Although this remedy was rarely used except by those with sophisticated legal counsel, civil society and journalists sought amparo in some major cases during the year.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits arbitrary entry into a private residence, except when police are in hot pursuit of a suspect or when a suspect is caught in the act of committing a crime. The law provides that all other entries into a private residence require an arrest warrant or search warrant issued by a judge. In practice, however, the police conducted illegal searches and seizures, including raids without warrants on private residences in many poor Santo Domingo neighborhoods.

Although the government denied using unauthorized wiretapping or other surreptitious methods to interfere with the private lives of individuals and families, human rights groups and opposition politicians alleged such interference continued.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Individuals or groups generally were able to criticize the government publicly and privately without reprisal, although a national journalists' association reported threats and aggression against journalists.

Newspapers and magazines presented a variety of opinions and criticisms. There were eight daily newspapers, a number of weekly newspapers, and numerous online news outlets. Editors at times seemed to practice self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners. Coverage of the major bank fraud trials was also often influenced by the fact that two of the major newspapers were owned by defendants in the trials.

On May 22, a judge ordered Senator Alejandro Williams to cease and desist from all actions against three journalists, Margarita Cordero, Maria Isabel Soldevila, and Norma Sheppard. The three journalists had filed suit against the senator, saying that men whom he had hired posed as foreign investigators and harassed the journalists for their unfavorable reporting about Williams.

In June 2008 a district attorney, Victor Cordero Jimenez, allegedly attacked journalist Manuel Guillermo Mejia when the latter questioned Cordero's performance in a drug-related case, which ultimately led to the dismissal of Cordero. Subsequently, Bani Senator Wilton Guerrero accused Cordero of complicity with drug dealers in the province. Cordero filed a suit against the senator, claiming defamation and libel, but a judge dismissed the charges.

There were many privately owned radio and television stations, broadcasting a wide spectrum of political views. The government owned one official television and radio station. International media operated freely.

There were no known developments in the case of cameraman Normando Garcia, who was killed in Santiago in August 2008.

The National Journalists' Union reported that civil, police, and military authorities, criminals, and other persons assaulted or threatened more than 70 journalists during the year. In October the NGO Reporters Without Borders' evaluation of press freedom in the country cited a high index of violence, harassment, and abuse against news organizations and journalists. The government did little to investigate the threats of violence or physical attacks on journalists.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available, including Wi-Fi hotspots. Blog functions were also available on several local press sites that allowed strongly stated views against the government and other powerful sectors. According to the International Telecommunication Union, there were 22 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The law provides for freedom of assembly, but outdoor public marches and meetings require permits, which the government usually granted. On several occasions, police officers used force to break up spontaneous demonstrations and killed or injured demonstrators or bystanders (see section 1.a.).

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the government generally respected this right in practice. The law prohibits discrimination on religious grounds, and many religious denominations were active.

The Catholic Church enjoyed special privileges not extended to other religions, under the terms of a concordat signed in 1954. For example, the government only recognizes civil and Catholic marriages.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination against members of religious groups. The Jewish community was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice; however, there were some exceptions. Local and inter-



national human rights groups reported that hundreds of thousands of persons without proper documentation, including Haitian migrants and other persons of Haitian descent, faced obstacles in traveling both within and outside of the country.

Although the government claimed it no longer practiced mass deportation, such practices were still reported. The new border control authority reported that from January to September, it had repatriated 6,619 Haitians. NGOs reported that in the majority of these cases, the government's agents did not follow due process or internal basic human rights guidelines, despite the terms of a bilateral agreement with Haiti regarding repatriation of undocumented Haitians and express instructions from the director of migration to follow the guidelines.

The law prohibits forced exile, and there were no reports of its use.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government established a system for providing protection to refugees but has not implemented it effectively.

An applicant for refugee status must be referred by the National Office of Refugees in the Migration Directorate to the Technical Subcommittee of the National Commission for Refugees, which is chaired by the Foreign Ministry. The subcommittee has the responsibility of making a recommendation to the commission, consisting of members from the Foreign Ministry, the DNI, and the Migration Directorate. The full commission has the responsibility for the final decision on the application but met only twice during the past 15 years.

As of December the Migration Directorate reported between 400 and 500 asylum applications, nearly all made by Haitians. Some of these cases had been awaiting decision since 2000, but five cases were approved (three Russians, one Haitian, and one Guatemalan), and 85 new cases were filed during the year. According to NGOs, hundreds of other asylum seekers submitted claims that had not been processed, leaving those individuals in a state of legal limbo for years. Most of these individuals lacked documentation sufficient to obtain permission to work legally and to exercise other rights, such as obtaining documentation for their children.

Although the government provided some protection against the expulsion or return of persons to countries where their lives or freedom might be threatened, there was still a risk of deportation. Protection generally applied to individuals who gained access to the refugee process and had been issued proof that they were refugees or had applications pending. The documents provided do not bestow significant legal rights, including residency, or prevent disruption of educational studies past eighth grade to children of refugees. Due to lack of training, these documents may not be recognized by all officials who might apprehend such a person.

There were reports that children born to Haitian refugees—even those born to holders of migration documents—were routinely denied birth certificates as well as education, health, and security documentation. In this respect they received the same treatment as any undocumented Haitian migrant.

*Stateless Persons.*—The constitution provides that anyone born in the country is a Dominican national, except children born to diplomats or to those who are “in transit.” The government regularly used the transit exception to deny registration as nationals to children born in the country of parents of Haitian descent, whom the government considers to be in the country illegally, even when their parents and grandparents had resided in the country for long periods of time. In 2005 the Supreme Court ruled that transit status applied to children of undocumented migrants.

Haitian consulates reported that they were legally authorized to register only those births that were declared within two years. Parents declaring a birth were required to submit valid forms of identification in order to file a claim. These requirements could not be met by a significant number of persons of Haitian descent in the country, and thus their children remained undocumented. Consequently, hundreds of thousands of Dominican-born persons of Haitian descent were functionally stateless. According to a report submitted to the UN Human Rights Council by the government, an estimated 900,000 to 1.2 million undocumented immigrants, mostly of Haitian descent, were in the country.

The Dominicans and Dominican-born persons of Haitian descent who lacked citizenship or identity documents faced obstacles in traveling both within and outside of the country. In addition undocumented persons cannot obtain the national identification card (*cedula*) or a voting card. Persons without a *cedula* had limited access to formal sector jobs, public higher education, marriage and birth registration, formal economy services such as banks and loans, access to courts and judicial procedures, and ownership of land or property.

Government officials often took strong measures related to citizenship for persons of Haitian descent. In 2007 the Central Elections Board (JCE) issued an administra-

tive instruction ordering officials to refrain from issuing, signing, and providing official copies of birth documents for individuals whose parents were foreigners and had not legally proven their residency. This resulted in cases of retroactive cancellation of birth and identity documents, many pertaining to persons of Haitian descent. The government stated that such cancellations were based on evidence that the documentation had been obtained fraudulently, and that of 2,416 cases through July 2008, only 72 involved parents of Haitian descent. However, advocacy groups alleged that the revocations targeted persons whose parents were Haitian or whose names sounded Haitian and that the number of revocations was in the thousands. As of March the JCE had provisionally revoked the birth certificates and cédulas of 126 children born to Haitian migrants and their children. Some of the births had been recorded decades ago, with several from the early 1970s. The JCE also cancelled 65 cédulas issued to foreign nationals on grounds of fraud, 12 of which were held by Haitians.

The government has taken no action, and none was expected, in the case of Norberto Selvi, who was denied a copy of his birth certificate in 2007.

In 2007 the JCE also created a registration system that allowed children born in the country of parents who were not legal residents to receive a special birth certificate. This involved a registration book for foreigners. Regulations stipulated that children born of parents who were not legal residents of the country and have documentation from their home country may register their child in the book, after which the parents would be given an official report of birth, which does not confer citizenship. Only children born in hospitals are eligible for registration in the book. Children of undocumented mothers are given provisional birth certificates until the mother obtains her documents. An undocumented mother may make a late declaration in the civil registry by presenting her parents' birth certificates. However, most undocumented mothers could not comply with this requirement as their parents also did not have documents.

Local and international NGOs reported that since implementation of the foreigner's book, hospitals and civil registries did not register numerous children of Haitian migrants and their descendants. As of October the JCE reported that approximately 631 children registered in the foreigner's book were of Haitian descent. An estimated 10,000 to 20,000 children are born to Haitian migrants and their descendants each year. NGOs reported that some Haitian parents who were in the country legally, and whose children were Dominican nationals under Dominican law, were required to register their children's births in the foreigner's book.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage. Active-duty police and military personnel may not vote or participate in partisan political activity.

*Elections and Political Participation.*—In May 2008 PLD candidate Leonel Fernandez won the presidency in an election described as generally free and fair by the Organization of American States, other independent observers, and the government electoral board. Observers also described the 2006 congressional and municipal elections as generally free and fair.

By law parties must reserve for women 33 percent of positions on their lists of candidates for the House of Representatives and city councils; in practice the parties often placed women low on the lists. There were two women in the 32-member Senate, 33 women in the 178-member House of Representatives, two women in the cabinet, and five women on the 16-seat Supreme Court.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and administration officials who engaged in corrupt practices were not prosecuted, although some were removed from office and others were submitted to the Office for the Prosecution of Corruption for investigation. The World Bank's worldwide governance indicators continued to reflect that government corruption was a serious problem. Moreover, a 2008 survey showed that 81 percent of citizens believed that the country was corrupt (43 percent) or very corrupt (38 percent). The same study showed that more than 25 percent of citizens considered corruption to be an impediment to development. The World Economic Forum Global Competitiveness report also listed corruption as the most problematic factor for doing business in the country.

Government officials were reluctant to investigate seriously and prepare for trial cases involving senior government officials of either the current or former govern-

ment. The attorney general concluded six corruption cases against lower-level officials, either by conviction or acquittal, compared to 17 in 2008.

The May 2008 death in jail of convicted narcotics kingpin Rolando Florian Feliz led to revelations that he ran his criminal enterprise from a deluxe cell where he had access to books, television, and prostitutes. However, the chief of the prison system did not resign, nor was he fired.

The efforts of the criminal justice system to combat financial crimes and corruption were blunted by five pardons issued by President Fernandez for certain persons convicted in two well-known corruption cases in December 2008: the RENOVE and Baninter cases. Most members of the Pardons Commission resigned in protest against the pardons.

Following the investigation and dismissal by Congress of the members of the Court of Accounts, new members were named in September 2008. The new members voted themselves Christmas bonuses but after a public outcry returned the money. Since then, the new Court of Accounts made significant efforts to strengthen itself institutionally and increase its capacity to carry out effective audits of government institutions. During the year the Court of Accounts submitted a number of audit reports to Congress with significant findings of misuse of public funds and lack of proper procedures. These included several municipalities, institutions of state, and the national budget. By the end of the year, there were no known follow-up measures or sanctions taken.

The use of nonjudicial sanctions continued. These measures included the dismissal or transfer of armed forces members, police officers, judges, and other minor government officials engaged in bribe taking and other corrupt behavior. Society's widespread attitude of tolerance toward at least some forms of corruption complicated the effort to reduce corruption. In a 2008 survey, respondents acknowledged that they did not condemn specific acts of corruption (such as paying a small bribe to a government official) because they considered that they gained something in return.

The Commission for Ethics and Combating Corruption continued to operate, although with minimal practical results as it lacked well-defined authorities and decision-making structures. In August the president appointed Marino Vinicio Castillo as the new president of the commission. Castillo vowed to take actions necessary to improve prosecution of corruption in addition to strengthening prevention, although there was no noticeable improvement by year's end.

In September the Supreme Court approved a change of venue for the prosecution of several naval officers and a former police officer in Bani for their alleged involvement in killing seven supposed drug traffickers after some of the accused threatened prosecutors and judges. The trial of 27 defendants continued in Santo Domingo at year's end; however, it was not clear that the judicial system would be able to pursue powerful individuals alleged to be behind the crimes.

The law requires that the president and vice president, members of Congress, some agency heads, and other officials such as mayors and council members, as well as income tax and customs duty collectors, make declarations of their personal and real property within a month of being hired, as well as when they "end their responsibilities." Efforts were made to encourage compliance, but it was not clear how effective these were. The Department of Prosecution of Corruption, an office within the Public Ministry, is in charge of reviewing these declarations.

The law provides for public access to government information, with limits on the availability of such information only under specified circumstances (such as to protect national security). It also provided for penalties of up to two years in prison and a five-year ban from positions of public trust for government officials who obstruct access to public information. A court may review the decision of an agency to deny access to information. While often timely, responses were also often incomplete, and the government rejected subsequent requests. Moreover, there was little consistency in the determination of what was considered public information and what was not.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. While government officials generally were cooperative and responsive to their views, human rights groups who advocated for the rights of Haitians and persons of Haitian descent were an important exception and faced occasional government harassment and threats.

Principal domestic NGOs included the Dominican Human Rights Committee, the National Human Rights Commission, and the Santo Domingo Institute of Human Rights. There were also several smaller secular and religious organizations that ad-

dressed women's rights, labor issues, and the rights of Haitians and their descendants in the country.

By year's end the government had not implemented a 2001 law mandating the creation of a human rights ombudsman's office.

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

Although the law prohibits discrimination based on race and gender, such discrimination existed, and the government seldom acknowledged its existence or made efforts to combat it.

*Women.*—Rape was a serious and widely underreported problem. The law provides penalties for rape of from 10 to 15 years in prison (or 10 to 20 years in case of rape of a vulnerable person, a child, or if occurred under other egregious circumstances) and a fine of 100,000 to 200,000 pesos (approximately \$2,770 to \$5,540). The state may prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against spouses. Victims often did not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. Police were reluctant to handle rape cases and often encouraged victims to seek assistance from NGOs.

Domestic violence continued to be a serious problem. Under the Law against Domestic Violence, the state can prosecute rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from one to 30 years in prison and fines from 700 to 245,000 pesos (approximately \$20 to \$6,800). A local NGO estimated that 20 percent of women between the ages of 15 and 49 had been victims of physical abuse at some point in their lives. Between January and May, the government reported 41 women killed as a result of domestic violence.

The district attorney of Santo Domingo in the National District, which includes approximately 10 percent of the country's population, had a specialized Violence Prevention and Attention Unit with 14 satellite offices around the city. At these offices victims of violence could file criminal complaints, obtain free legal counsel, and receive psychological and medical attention. Police were instructed to forward all domestic violence and sexual assault cases to these offices. Each office had professional psychologists on staff to counsel victims of violence and to assess the threat of impending danger associated with a complaint. These offices had the authority to issue temporary restraining orders immediately after receiving complaints and to serve as messengers for the victims, which prevented contact between the victim and the abuser.

As of December, 7,598 complaints had been made to the specialized Violence Prevention Unit, a slight increase from the same period in 2008. The cases reported were either settled through mediation, remained in investigation, or were taken to court.

The National Directorate for Assistance to Victims coordinated efforts of official and nongovernmental institutions that offer services to victims of violence. It had three offices in Santo Domingo and two others elsewhere. These offices not only accepted criminal complaints from victims of violence throughout the country but also provided counseling and protection services and, when necessary, referrals to medical or psychological specialists. The Attorney General's Office, the Secretariat of Women, and various NGOs conducted outreach and training programs on domestic violence and legal rights. Additionally, the Attorney General's Office established a public information campaign against sexual and labor exploitation and launched a national hotline for prevention and victim assistance.

The Secretariat of Women also operated two shelters for victims of domestic violence in undisclosed locations, where abuse victims could make a report to the police and receive counseling.

Prostitution is legal, although there are some prohibitions against sex with minors, and it is illegal for a third party to derive financial gain from prostitution. However, the government usually did not enforce prostitution laws. Sex tourism existed throughout the country, particularly in Las Terrenas, Cabarete, Sosua, and Boca Chica. Human rights groups reported continuing prostitution in sugarcane work camps and areas outside the capital. NGOs conducted programs about prostitution and child sexual exploitation for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups.

Sexual harassment in the workplace is a misdemeanor and carries a possible penalty of one year in prison and a fine of up to 10,000 pesos (approximately \$277); however, union leaders reported that the law was not enforced, and sexual harassment remained a problem.

Reproductive rights were generally respected. While contraceptives were freely available, many low-income women used contraceptives inconsistently due to both irregular availability of contraceptives from public agencies as well as social and re-

ligious bias against family planning. Maternal mortality remained high (159 per 100,000 live births), yet 98 percent of deliveries took place in hospital settings. Most maternal and neonatal deaths were due to poor quality of care and failure to adhere to standards norms and protocols, resulting in mismanagement of both normal and complicated deliveries. In addition the number of Caesarean sections was extremely high. Most women had access to some postnatal care. However, in some poor provinces such as Pedernales, 29 percent of women received no postnatal care. Access to diagnostic services and treatment of sexually transmitted diseases was limited by technical, financial, and management issues affecting equally both men and women. Approximately 12,000 persons with HIV/AIDS—the majority of whom were women—had access to antiretroviral treatment.

Although the law provides that women have the same legal status as men, in practice women experienced discrimination. Women did not enjoy social and economic status or opportunity equal to those of men, and men held most leadership positions in all sectors. In many instances women received less pay than men in jobs of equal content and requiring equal skills. Some employers reportedly gave pregnancy tests to women before hiring them, as part of a required medical examination. Although it is illegal to discriminate based on such tests, NGO leaders reported that pregnant women often were not hired and that female employees who became pregnant sometimes were fired. There were no effective government programs to combat economic discrimination against women.

*Children.*—Citizenship is acquired by birth in the country, except children born to diplomats or to those who are “in transit,” a broadly defined category (see section 2.d.). Children born to parents of Haitian descent, even when the parents had resided in the country for a lifetime, were denied citizenship under the transit exception. A child not registered at birth is undocumented until a late declaration is made, and there were limitations on late declarations. The most recent report by the NGO Profamilia and the UN Children’s Fund indicated that 13 percent of children under 15 were not registered. Undocumented children, particularly those of Haitian descent, faced challenges in accessing primary public education.

Abuse of children, including physical, sexual, and psychological abuse, was a serious problem. As of August, 1,558 complaints had been filed in the National District, which primarily represents the capital city of Santo Domingo. Of these, more than half were awaiting a court appointment. Few such cases reached the courts, due to fear of family embarrassment, lack of economic resources, or lack of knowledge regarding available legal assistance. The Santo Domingo district attorney’s office reported that in most abuse cases, the accused was a person close to the child, such as a family member or close family friend. The law provides for removal of a mistreated child to a protective environment.

Local observers believed that instances of child abuse were underreported because of the social norm that such problems should be dealt with inside the family. The law contains provisions concerning child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor. The law provides penalties of between two and five years’ incarceration and a fine of three to five times the monthly minimum wage for persons found guilty of abuse of a minor. The penalty is doubled if the abuse is related to trafficking.

The law covers statutory rape, and the age of consent is 18. Penalties for statutory rape are 10 to 20 years in prison and a fine of 100,000 to 200,000 pesos (\$2,778 to \$5, 556) if rape is committed against a child or adolescent. The law also contains specific provisions that prohibit child pornography and child prostitution, prescribing penalties for sexual abuse of children of 20 to 30 years’ imprisonment and fines from 100 to 150 times the minimum wage.

The government’s National Directorate for Assistance to Victims coordinated efforts of official and nongovernmental organizations to assist children who were victims of violence and abuse.

Trafficking, sexual exploitation of children, and child sex tourism remained serious problems, particularly in major urban areas and popular tourist destinations. Child prostitution often was based on economic need, and the government conducted several programs to combat the sexual exploitation of minors, including notices in airports and targeted programs in popular tourist locations.

*Trafficking in Persons.*—Although the law prohibits trafficking in persons for all purposes, there were reports that men, women, and children were trafficked to, from, and within the country.

The prevalence of the problem was uncertain because of its illegal nature. The NGO Center for Integral Orientation and Investigation (COIN) estimated that from 17,000 to 33,000 Dominican women abroad were victims of trafficking. Dominican women reportedly were trafficked to a wide variety of nations, principally in West-

ern Europe, Latin America, and the Caribbean for commercial sexual exploitation. Women 18 to 25 years of age, in particular those with low levels of education, were at the greatest risk of being trafficked. Internally trafficked victims were typically women or adolescents trafficked for sexual exploitation to urban or tourist areas. Women and children were also reportedly trafficked internally for domestic servitude.

According to COIN and the International Organization for Migration (IOM), trafficking organizations were typically small groups. Individuals in the country recruited the persons to be trafficked and obtained identification and travel documents. Traffickers frequently met women through friends and family; they promised some form of employment, obtained false or legitimate documents for the women, and often retained their passports after arrival in the destination country. NGOs operating in the country report helping only a few victims a year. As of October the IOM had assisted 28 victims of trafficking.

The law includes penalties for traffickers of 15 to 20 years' imprisonment and a fine of up to 175 times the monthly minimum wage. The Protection of Children and Adolescents Law provides penalties for the transfer of a child to someone else, in exchange for compensation, for forced labor, commercial sexual exploitation or other degrading activities, of 20 to 30 years' imprisonment and fines from 100 to 150 times the minimum wage. Nevertheless, the government generally failed to prosecute trafficking cases. During 2008 the Attorney General's Office claimed to have opened four investigations.

In late 2008 the National Commission against Trafficking in Persons, a body established by the government, produced a national plan to combat trafficking and improve victim protection but did not fund its implementation. Law enforcement services cooperated with foreign governments investigating trafficking and child prostitution cases.

The involvement of government officials in trafficking was unproven, but some activists believed trafficking in persons could not happen without the cooperation or acquiescence of some officials. The government reported investigating public officials who facilitated, condoned, or were complicit in trafficking activities, but there were no known prosecutions. The Migration Department fired numerous investigators that it suspected of possible involvement in trafficking.

The government provided some assistance to trafficking victims both overseas and in the country, but it relied on NGOs and international organizations to provide the bulk of protection services. The Ministry of Foreign Affairs developed a worldwide network of consular officers trained to recognize and assist victims of trafficking. There were several church-run shelters that provided refuge to children who escaped prostitution, with some government support. Public shelters for victims of domestic violence were generally not accessible to trafficking victims. The government had an awareness-raising campaign by radio, television, and print media to discourage illegal emigration and combat human trafficking.

The Prevention Unit of the Department of Alien Smuggling and Trafficking in Persons, in coordination with the Secretariats of Labor and Education, provided outreach training at schools around the country. The courses warned children of the dangers of alien smuggling, commercial sexual exploitation, and trafficking. Additionally, the government and various organizations made efforts to address the problem of sex tourism in high-volume tourism areas. NGOs also conducted programs for hotel and industrial zone workers about prostitution and child sexual exploitation issues.

COIN and the IOM counseled women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other problems, including the dangers of trafficking, forced prostitution, and forced domestic servitude. COIN administered the Center for Health and Migration Information for Migrant Women, which carried out community education campaigns in high-risk areas on these issues, as well as citizenship documentation and legal work requirements. With IOM support, COIN also provided a minimal level of clinical services and adult education classes for returned women, many of whom were trafficking victims.

There were no reports that the government inappropriately incarcerated, fined, penalized, or prosecuted identified victims, nor did the government discourage people from filing complaints.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—Although the law prohibits discrimination against persons with disabilities, these individuals encountered discrimination in employment and in obtaining other services. The law provides for physical access for persons with disabilities to all new public and private buildings, but the authorities did not enforce this provision. The Dominican Association for Rehabilitation, which had 17

branches around the country, received a subsidy from the Secretariat of Public Health to provide rehabilitation assistance to persons with disabilities.

Discrimination against persons with mental illness was common across all public and private sectors, and there were few resources dedicated to the mentally ill.

*National/Racial/Ethnic Minorities.*—There was significant evidence of racial prejudice and discrimination against persons of dark complexion, but the government denied that such prejudice as well as discrimination existed and, consequently, did little to address the problem.

There were also strong prejudices against Haitians, which disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of dark complexion. Few government officials acknowledged the existence of this discrimination; others regularly and publicly denied that it existed.

Local NGOs reported incidents where darker-skinned persons were denied access or services in banks, service in restaurants and stores, entry into nightclubs, enrollment in private schools, and birth registration in hospitals. In a 2007 report, the UN special rapporteurs for racism and the rights of minorities urged authorities to recognize the existence of racism and discrimination against minorities, adopt a national action plan to address the problem, revise a JCE rule that resulted in revocation of identity documents for Haitians, and cease mass repatriations of Haitians. Government officials responded to the report with a denial that racism existed in the country, referencing comments that the country was a mulatto community. They asserted that the JCE rule focused on fraud and that Haitians in the country could receive their identity documents in Haiti. The government also claimed there were no grounds to state that black Dominicans were being repatriated to Haiti and noted that authorities suspended repatriations on Fridays to prevent employers from using this as a tool to avoid paying laborers for the week's work.

Haitians continued to immigrate to the country in search of economic opportunity, and the government repatriated many of them. Migration authorities and security forces conducted periodic sweeps throughout the year to locate and repatriate undocumented persons of Haitian descent. Some of those removed from the country reported that they were denied the opportunity to demonstrate that they were legal residents, to make arrangements for their families or property, or to express a credible fear of persecution or torture if returned to Haiti. NGOs reported that migration officials and security forces sometimes confiscated and destroyed expellees' residency documents and passports despite standing government orders to respect the human rights of the expellees. In some cases expellees with appropriate legal documents received permission to return.

Some Haitian immigrants lived in shantytowns or sugarcane work camps known as "bateyes." As in many poor areas in other parts of the country, these were harsh environments with limited or no electricity, running water, sanitary facilities, or adequate schooling. In many bateyes medical assistance either was rudimentary or not readily available, and clean water was rarely available. Many batey residents, lacking documentation, felt they had little choice but to remain in their communities, where they felt relatively safe from the risks of deportation and harassment that existed elsewhere in the country.

Private sector enterprises in the sugar sector continued to make improvements at their facilities, a process that began in 2007, including new schools and both new and renovated housing. In Nuevo Cayacoa, construction of a modern housing and community development for 132 cane workers and their families concluded its first phase in September.

During the year there were reports of vigilante violence and attacks against Haitians (see section 1.a.).

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—NGOs reported widespread social discrimination against persons based on sexual orientation. Members of the lesbian, gay, bisexual, and transgender (LGBT) community voiced concerns about discrimination in all areas of society, including health, education, and work. Numerous credible reports indicated members of the LGBT community were expelled from public school, arrested without reason, fired from work, or denied access to rent or own homes.

Gay and lesbians faced physical attacks, intimidation, harassment, and threats of violence. NGOs reported that these groups were reluctant to file charges or complain to authorities due to fear of reprisal or humiliation. Several killings during the year were linked to the victims' sexual orientation. In March a transgender sex worker, Francisco Encarnacion Urbi, was thrown from a moving vehicle and later died at a hospital in Santo Domingo. In April two transgender sex workers were assaulted and later killed in Santiago. On August 11, 18-year-old Janet Cerda, a lesbian in Santiago, was found killed by an unknown attacker in the streets. On

October 20, a transgender sex worker, Richard Joel Cuevas Castillo, was shot and wounded by four unknown suspects on motorcycles in Santo Domingo. On November 25, unknown attackers shot and killed a transgender sex worker, Alejandro Correa Pichardo, in Santo Domingo. Investigations into these killings were pending at year's end.

Since the first gay pride celebration in 2001, authorities have rejected or delayed all other permission requests for its formal celebration by gay and lesbian organizations. Activists reported that these organizations substituted marches and concentrations by small informal gatherings in recreational spaces, activities that do not require any type of permission from authorities.

*Other Societal Violence or Discrimination.*—Persons with HIV/AIDS faced discrimination in the workplace and elsewhere. According to the UN agency UNAIDS, an estimated 52,000 to 71,000 persons were infected with the disease. A study by the Network of Persons Living with HIV, Profamilia, and Alianza Solidaria revealed that, among the sample of persons living with HIV who were interviewed, 62 percent reported being the subject of gossip, 30 percent were the victims of verbal aggression, 27 percent were the victims of verbal threats, and 14 percent were victims of attacks or physical threats.

According to Human Rights Watch and Amnesty International, workers in many industries faced obligatory HIV testing in the workplace or when seeking medical care or medical insurance. Many workers or patients found to have the disease were not hired or were fired from their jobs or denied adequate health care. Although the law prohibits the use of HIV testing to screen employees or for medical services unrelated to the disease, there were no known instances where this was enforced, despite reports that official complaints had been filed.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the freedom to organize labor unions, and all workers, except the military and the police, were free to form and join unions of their choice. There were some restrictions placed on civil servants for union formation; 40 percent of civil servant employees must agree to join the union in a given government entity for it to be formed. Organized labor represented an estimated 8 percent of the work force. Although the law requires that unions be registered by the Ministry of Labor in order to be legal, it provides for automatic recognition of a union if the Secretary of Labor has not acted on the application within 30 days.

A few labor unions represented a small number of Haitian workers, who are covered by the Labor Code regardless of legal status. (Persons who register unions must have documentation, but enforcement of documentation rules for union members was lax.) Various NGOs reported that many Haitian laborers and Dominicans of Haitian descent in the agricultural and construction industries did not exercise their rights, fearing firing or deportation. Although 500 undocumented Haitian employees of a private sugar producer sued their employer and won the right to benefits and a written contract in November 2008, a court later rejected the ruling on appeal. The decision held that a contract does not have to be written to be enforceable, and the Labor Code does not require a written contract. Various NGOs reported that companies took advantage of the slow and ineffective legal system to appeal cases, which left workers without labor rights protection in the interim.

The law provides for the right of most workers to strike but includes a number of requirements for the strike to be legal, and formal strikes were not common. Formal requirements for a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike.

Government workers and essential public service personnel are not allowed to strike. The Ministry of Labor offered a worker-employer conciliation process in an effort to provide due process to protect workers' rights.

*b. The Right to Organize and Bargain Collectively.*—The law protects the right to organize and bargain collectively. While the law requires that collective bargaining be used in firms in which a union has gained the support of an absolute majority of the workers, it does not allow for collective bargaining unless a trade union represents an absolute majority of the workers. The International Labor Organization (ILO) considered this requirement to be excessive and an impediment to collective bargaining. Few companies had collective bargaining pacts, partly because companies created obstacles and could afford to go through lengthy judicial processes that nascent unions could not afford.

The law establishes a system of labor courts for dealing with disputes. This process was often long, with cases remaining pending for several years. The most recent



study by the Foundation for Institutionalism and Justice, a local NGO, showed that the average case resolution time was 15.3 months in courts of first instance and 16.4 months in appeals court.

Many participants reported that the ministry's nonbinding conciliation process, involving 37 mediators in eight locations, was the most effective method for resolving worker-company disputes.

The law forbidding companies from firing union organizers or members was enforced inconsistently, and penalties were insufficient to deter employers from violating worker rights. Some NGOs reported that workers who tried to form unions were routinely fired. There were reports of harassment and intimidation by employers in an effort to prevent union activity, especially in the free trade zones (FTZs). The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) noted incidents of antiunion activity at Gildan Active Wear, Andin Caribe, Kola Real, and Loadway Enterprise. There were complaints made that the management of these companies conducted public antiunion campaigns, which included threats to fire union members, engaged in activities to forestall attainment of union membership sufficient to establish collective bargaining rights, and violated worker rights under the labor code.

Given the scarcity of formal sector employment, the fear of reprisal greatly limited workers ability to freely associate. Workers were often asked to sign documents agreeing not to participate in union activities. Companies often supported company unions to counter free and democratic unions.

Local NGOs reported that companies routinely attempted to create "yellow" or company-backed unions in an effort to dilute the worker union's power. In addition, the use of short-term contracts and subcontracting was increasing—often making union organizing and collective bargaining more difficult.

There were no new developments in the Ministry of Labor's 2008 investigation of labor rights violations—including discrimination against union members, forced overtime, and minimum wage violations—reportedly committed by an agricultural export company in the north of the country. FEDOTRAZONAS reported that the company continued to discriminate openly against its members during the year.

The labor code applies in the 57 established FTZs, which employed approximately 155,000 workers. According to the National Council of Labor Unions, unions were active in only eight companies in the FTZs, and only four unions had established collective bargaining rights. Workplace regulations and their enforcement in the FTZs did not differ from those in the country at large. Working conditions were reportedly sometimes better, and the pay in the FTZs was occasionally higher than in the public or agricultural sectors. At the same time, mandatory overtime was a common practice.

There were reports of widespread covert intimidation by employers in the FTZs to prevent union activity, firing of workers for union activity, and blacklisting of trade unionists. Unions in the FTZs reported that their members hesitated to discuss union activity at work, even during break time, for fear of losing their jobs. Unions accused some FTZ companies of discharging workers who attempted to organize unions. The majority of the unions in the FTZs were affiliated with the National Federation of Free Trade Zone Workers or with FEDOTRAZONAS. FEDOTRAZONAS estimated that fewer than 10 percent of the workers in the FTZs were unionized. Many of the major manufacturers in the FTZs had voluntary codes of conduct that included worker rights protection clauses generally consistent with the ILO Declaration on Fundamental Principles and Rights at Work. However, workers were not always aware of such codes or of the principles they contained.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, but there were reports of forced labor of both children and adults within the country. There were reports that both adults and children were forced to work as domestic servants. Children were also subjected to forced prostitution, particularly in coastal resort areas (see section 6).

Haitian workers' lack of documentation and illegal status in the country often placed them in a tenuous situation and made them vulnerable to forced labor. Although specific data on the issue were limited, there were reports that some Haitian nationals may have been subjected to forced labor in the service, construction, and agricultural sectors. A foreign government report asserted there was reason to believe that at least some sugar in the country was produced with forced labor. Private sugar producers acknowledged that they hired some Haitian workers already residing and working in the country but insisted that they did not force these individuals to work. NGOs reported that the practice of bringing in new, undocumented migrant labor from Haiti continued and that labor conditions in sugar cane plantations remained harsh.

Mandatory overtime, a common practice, was sometimes enforced through locked doors or loss of pay or employment for those who refused.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—While the law prohibits employment of children younger than 14 years of age and places restrictions on the employment of children under the age of 16, child labor remained a serious problem, although there was some evidence it lessened during the year. Some NGOs estimated that 436,000 minors between five and 17 years of age worked illegally. Regulations limited working hours of those between the ages of 14 and 16 to six hours per day; for those under age 18, the law limited night work and prohibited employment in hazardous occupations, under unhealthy working conditions, or in establishments serving alcohol. Fines and legal sanctions may be applied to firms employing underage children. While the government effectively enforced these regulations in the formal sector, child labor was a problem in the informal sector largely beyond regulatory reach.

Child labor took place primarily in the informal economy, small businesses, private households, and agriculture. In particular, there were reports that children worked in the production of garlic, potatoes, coffee, tomatoes, and rice. There were also limited reports of children working in mining of larimar in the Barahona region. Children often accompanied their parents to work in agricultural fields, in part because parents had nowhere else to leave their children, since schools were usually in session only for a few hours a day. The commercial sexual exploitation of children remained a problem, especially in popular tourist destinations and urban areas.

Children also worked as domestic servants, and many appeared to be victims of forced labor. There were credible reports that poor Haitian families arranged for Dominican families to “adopt” and employ their children. In some cases adoptive parents reportedly did not treat the children as full family members, expecting them to work in the households or family businesses rather than to attend school, which resulted in a kind of indentured servitude for children and adolescents.

The Ministry of Labor and other government institutions, as well as organizations from civil society, continued to work with the ILO’s International Program on the Elimination of Child Labor to prevent 5,500 children from entering or continuing in exploitive labor and to mitigate certain conditions, such as eliminating employment of children in hazardous agriculture in rice-growing regions. The effort also included a program to combat the commercial sexual exploitation of minors in popular tourist destinations such as Boca Chica, Sosua, and Las Terrenas. These programs provided psychological support and medical assistance, returned children to classrooms, and reunited children with their families and communities whenever possible. The programs also provided legal assistance to child victims and their families to arrest and convict exploiters.

The Ministry of Labor, following site inspections, reported that the sugar consortium’s bateyes no longer used child labor on their property. NGO sources, however, stated that child labor could still be found in these facilities. The Secretariat of Labor employed 203 labor inspectors, all of whom received special training to locate and eliminate illegal child labor.

The National Steering Committee against Child Labor’s plan to eliminate the worst forms of child labor set objectives, identified priorities, and assigned responsibilities so that exploitive labor could be efficiently tackled and the number of child laborers significantly reduced. In January 2008 the Ministry of Labor launched a program to support public-private partnerships aimed at preventing hazardous child labor with a goal of withdrawing 8,500 children from exploitive labor. The program helped reduce the number of children exposed to the worst forms of child labor from 9.3 percent in 2004 to 6.4 percent in 2008.

*e. Acceptable Conditions of Work.*—The executive branch sets minimum wage levels for public workers, and the tripartite National Salary Committee sets levels for the private sector, with the exception of workers in the FTZs and the sugar, construction, hotel, and shoe manufacturing industries. A Tripartite Commission negotiates minimum wages for each of these industries separately, and the Ministry of Labor enforces the minimum wages. The minimum monthly salary was 4,900 pesos (approximately \$136) in the FTZs and between 5,158 and 8,465 pesos (\$143 and \$235), depending upon the size of the company, outside the FTZs. The minimum wage for the public sector was 2,600 pesos (\$72) per month. The daily minimum wage for farm workers covered by minimum wage regulations was 175 pesos (\$4.86), based on a 10-hour day, which includes all agricultural products except sugarcane. Cane workers were subject to a special, lower minimum wage for the sugar industry of 95 pesos (\$2.64) per day. The national minimum wage did not provide a decent standard of living in any industry for a worker and family. All workers, including migrants, are covered by minimum wage provisions.

The law establishes a standard work period of 44 hours per week and stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. The law provides for premium pay for overtime, although enforcement was ineffective. At some firms in the FTZs, overtime was mandatory. The FEDOTRAZONAS reported that some companies set up "4x4" work schedules, in which employees work 12-hour shifts for four days. Some companies also started a practice to pay every eight days instead of every seven days, which resulted in a loss of wages for workers.

On sugar plantations cane cutters usually were paid by the weight of cane cut rather than the hours worked. Cane cutters continued to suspect fraud by weighing station operators and noted that employers sometimes did not provide trucks or carts to transport the newly cut cane at the end of the workday, causing workers to receive lower compensation because the cane dried out overnight and weighed less. Company officials denied that there were delays in transporting cane, noting that any delay would be detrimental to their business operation. The amount of cane a worker could cut varied, but most young able-bodied workers were able to cut two to three tons of cane in a workday, yielding a daily wage of 160-240 pesos (approximately \$4.44-\$6.67). However, older, less able-bodied workers were paid only for the amount of the cane they actually cut, even if the amount was less than the minimum wage. During the six-month off-season, some workers in sugar plantations who opted to remain in their communities were offered part-time jobs such as clearing land or cleaning sugarcane. Such workers generally were not paid the legally mandated minimum wage.

Conditions for agricultural workers were poor, with many workers working long hours and exposed to hazardous working conditions including the exposure to pesticides, excessive exposure to the sun, and use of sharp and heavy tools. Many activists reported that workers in the sugarcane industry who lived in company-owned bateyes had inadequate access to schools, medical facilities, running water, and sewage systems. Some employers in the sugarcane industry allegedly withheld a portion of wages to ensure that workers returned for the next harvest. Sugarcane workers often did not receive medical services or pensions due to the lack of documentation even though deductions were taken from their pay.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. Although the inspectors noted over 2,000 infractions, the findings of these inspections were not effectively enforced. Workers complained that inspectors were not trained, did not respond to health and safety complaints, and more quickly responded to requests from employers than workers. While the law requires that employers provide a safe working environment, in practice workers could not remove themselves from hazardous working situations without losing their jobs.

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## ECUADOR

Ecuador is a constitutional republic with a population of approximately 14.6 million. In September 2008, voters approved a referendum on a new constitution, which became effective in October of that year, although many of its provisions were still being implemented during the year. On April 26, voters reelected Rafael Correa to a four-year presidential term in elections that were considered generally free and fair. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there continued to be problems in the following areas: isolated unlawful killings and use of excessive force by security forces, sometimes with impunity; poor prison conditions; arbitrary arrest and detention; corruption and other abuses by security forces; a high number of pretrial detainees; and corruption and denial of due process within the judicial system. President Correa and his administration continued verbal and legal attacks against the independent media. Societal problems continued, including violence against women; discrimination against women, indigenous persons, Afro-Ecuadorians, and persons based on their sexual orientation; trafficking in persons and sexual exploitation of minors; and child labor; despite constitutional provisions and some positive governmental steps on these issues.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Although the government or its agents did not commit any politically motivated killings, there continued to be cred-

ible reports that security forces used excessive force and committed isolated unlawful killings.

On April 25, police officers allegedly shot and killed Carlos Songs, Oswaldo Chavez, and Walter Avila Murillo, after following them from El Puente Night Club in Manabi Province. According to a fourth victim who escaped without injury, the group assumed the attackers were robbers; they never identified themselves as police officers. On November 16, the prosecutor decided that there was insufficient evidence against the police officers to bring the case to trial and requested that the case be dismissed.

In December 2008 the bodies of three men were found in a car in Manta. One of the victims was Yandry Velez, who had allegedly fled to Manta to hide from Diego Erazo, chief of the operational support unit of the Judicial Police in Pichincha Province. The family asserted that police killed Velez and his friends on orders from the mayor. At year's end an investigation into the killings continued.

Due to lack of evidence, a police court did not try the January 2008 case in which police allegedly shot and killed two men, one a fellow officer, without asking questions of the suspects.

In February the prosecutor in Esmeraldas released all three police officers involved in the May 2008 incident in which police arrested Klever Arce Toro, an off-duty military conscript, who was found dead three days later. The National Police's internal affairs unit found that the officers had no responsibility for Arce's death.

On December 8, the judge determined there was insufficient evidence to convict the defendants in the April 2008 mob lynching and burning alive of two Colombians who allegedly killed a local resident in an attempted robbery in San Vicente, Manabi Province, and the case was closed.

The presidential commission established in 2007 to investigate human rights violations committed under the government of Leon Febres Cordero (1984-88) and in other periods was expected to issue a final report in September, but had not done so by year's end. The press reported that a draft report leaked in early September stated that the commission found 87 cases of human rights violations among the 150 cases investigated.

The Ecumenical Human Rights Commission (CEDHU) reported that mob violence against suspected criminals continued at the level of the preceding year. Such violence occurred particularly in indigenous communities and poor neighborhoods of major cities, where there was little police presence. On October 30, a mob of indigenous women attacked the director of bilingual and intercultural education in Cayambe, Pichincha Province, and doused him with water from a hose and threw stinging nettles on him. The women allegedly shouted that they were "applying indigenous justice" because he was a member of "the government of Rafael Correa" and would not let them assemble in the local school after hours.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Criminal kidnapping for profit continued to be a problem in selected regions of the country. There also were reports of extortion and threats of kidnapping of ranchers, farmers, and businessmen along the Colombian border. During the year police reported 28 kidnappings and 347 "express kidnappings" (in which a person is driven around and forced to make automatic withdrawals of personal funds), compared with 354 kidnapping cases and 143 "express kidnappings" in 2008.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the constitution and laws prohibit torture and similar forms of intimidation and punishment, some police officers reportedly tortured and abused suspects and prisoners, often with impunity.

The new constitution makes "any form of torture" illegal; the criminal procedures code has a similar provision, and the criminal code punishes state authorities and members of the police or military who use torture to force confessions. The Attorney General's Office tracked information on alleged torturers being imprisoned, but classified these cases as "crimes against life" and not as "torture." Such persons often were fined rather than imprisoned.

In April prosecutors began an investigation of seven police officers who allegedly tortured three suspects in a shopping mall robbery that occurred in March 2008. All charges against both robbery suspects were dropped, and the investigation into the actions of the police officers continued at year's end.

Through December 18, CEDHU registered 66 cases of alleged "torture" or "unwarranted physical aggression" by police forces.

In June police jailed 18-year-old Jose Elias Barberan Queirolo for killing a fan after a Quito soccer game. After being arrested, he claimed that police took him to a room, blindfolded him, and forced him to kneel while they hit him on the neck

and head. Barberan claimed the police wanted him to confess to a crime he did not commit. On July 10, the court released Barberan; no charges were filed against him.

In June two police officers approached five Salesian Polytechnic University students, including Paul Trujillo and Fernando Munoz, and tried to arrest them. The students resisted arrest, and the police requested reinforcements. The police used force to load the students into police vehicles, physically attacked the students, and released them after an hour. The students filed a complaint, but at year's end there had not been a response.

The prosecutor's office reportedly found little evidence in the January 2008 incident in which police officer Fernando Santiago Moreno Charro, accompanied by other officers, entered the Salesian University and allegedly injured student Nadia Cristina Traslavina Bossano because of her personal disagreements with Moreno's daughter. The statute of limitations in this case expired in January.

On April 1, the Pichincha Provincial Criminal Court ordered an investigation into the police involved in the March 2008 case of three men in Quito who claimed that police arrested them for attempted robbery, detained them on charges of illegal possession of arms, and tortured them to force confessions that they had taken part in the robbery. The authorities banned the police chief allegedly involved in the case from leaving the country. The court absolved the three men accused of the robbery of all charges against them.

A police judge reconsidered the case of a 2007 police beating of 16-year-old Victor Javier Tipan Caiza and dismissed the case on grounds of lack of merit after an internal police investigation of two officers.

*Prison and Detention Center Conditions.*—Conditions in prisons and detention centers generally were poor and tended to be worse in the tropical coastal areas than in the temperate highlands.

Overcrowding continued to be a problem in most prison facilities, although the number of detainees dropped sharply due to a presidential pardon that released thousands of persons serving sentences for drug trafficking that involved less than two kilograms of narcotics, or if they had been jailed for more than 12 months without trial. The decrease also reflected the work of a temporary public defenders' unit that hired over 150 lawyers to defend poor prisoners, especially those awaiting sentencing. As of December the National Agency for Social Rehabilitation (DNRS) reported that 10,808 prisoners were being held in 45 facilities designed to hold 7,527 prisoners, a decline from a total of 17,201 in the previous year.

A number of prisons experienced serious outbreaks of disease, and often medical care was inadequate. The daily allocation for prison rations was one dollar per inmate (the U.S. dollar is the official currency); prisoners often supplemented these rations by buying their own food. The DNRS reported that six prisoners died during the year, a decrease from 21 deaths in 2008.

A court acquitted two police officers charged in the 2007 death of Juan Lorenzo Delgado Zambrano, who died in a hospital reportedly after fighting another detainee in the local precinct jail. Delgado's family could not afford an attorney and was forced to leave the investigation to the prosecutor's office.

Conditions were notably better in the Quito women's prison than in men's facilities. There were no adolescents or children over three years old living with their incarcerated mothers; for children younger than three—who could not be separated from their mothers—appropriate day-care facilities within detention centers were provided. Pretrial detainees were held with convicted prisoners. According to CEDHU, male guards were responsible for guarding female inmates, and female inmates reported being beaten by male guards who accused them of trying to escape.

Although in most instances the government permitted prison visits by independent human rights observers, authorities occasionally did not permit human rights observers to visit prisoners who had been placed in isolation cells after they allegedly had been beaten. DNRS stated that all properly identified officials and representatives from nongovernmental organizations (NGOs) were able to visit prisoners, yet many times observers and authorities were not able to find prisoners because of poor record keeping and corruption of prison officials.

*d. Arbitrary Arrest or Detention.*—While both the previous and the new constitutions prohibit arbitrary arrest and detention, in 2006 the UN Working Group on Arbitrary Detention noted that provisions in the Criminal Procedures Code (CPC), the Penal Code, and some regulations adopted by central or provincial authorities “undermine the guarantees and protection offered.” In 2007 Congress passed an interpretive law stating that detainees who purposely delayed the judicial process were not subject to a benefit from the constitutional limitation of the length of preventive detention. However, the criminal courts did not apply this interpretation evenly nationwide.

The law stipulates that pregnant women cannot be held in prison facilities during pretrial detention, although women who are pregnant or become pregnant after sentencing must remain incarcerated. However, according to reliable NGOs, police sources, and press reports, many pregnant women were jailed rather than being confined to their homes during pretrial detention.

*Role of the Police and Security Apparatus.*—The National Police are under the authority of the Ministry of Government. National Police effectiveness was impaired by corruption, poor hiring procedures, and insufficient training, supervision, and resources. President Correa's October 2007 declaration of a state of emergency in several areas, which lasted six months, continued to result in a higher level of resources for the National Police. Police contacts said they had received an additional \$160 million as of August to combat crime and increase citizen security. On September 30, Correa declared a 60-day "state of exception" in the cities of Quito, Guayaquil, and Manta, permitting military forces to assist police in controlling crime. The Constitutional Court upheld the decree on October 2, and the government later extended it until the end of December.

Some municipalities, such as Quito and Guayaquil, have their own metropolitan police forces in addition to the National Police. Guayaquil also has a separate municipal transit police department. A police internal affairs office investigates complaints against police officers and can refer cases to the courts. According to reliable NGOs, members of the Quito and Guayaquil metropolitan police occasionally used excessive force. Police corruption was sometimes a problem. The National Police contracted with NGOs to provide human rights training.

*Arrest Procedures and Treatment While in Detention.*—The law requires authorities to issue specific written arrest orders prior to detention, and authorities must charge a suspect with a specific criminal offense within 24 hours of arrest. Within 24 hours of arrest, detained persons may challenge the legality of their detention through a habeas corpus petition to a judge in the locality where detention took place. The constitution provides that a prisoner may be released only by court order.

The prosecutor dropped the case of the 2007 arrest of Manuel Xavier Cornejo Delgado in Manta, who asserted that he was arrested and held incommunicado for two weeks, for lack of merit.

Bail is allowed only in the case of crimes punishable with jail terms of less than five years, and is prohibited for hate, sexual, and domestic violence crimes and those which, in the judge's opinion, may cause public alarm.

Although the law entitles detainees to prompt access to lawyers and family members, there were delays depending on the circumstances and officials' willingness to enforce the law; alleged narcotics traffickers commonly waited 24 to 48 hours for these visits. Detainees with sufficient resources bribed prison officials to facilitate access. CEDHU reported that an unknown number of prisoners were held in facilities that did not accommodate visits by family or counsel.

Although the law prohibits incommunicado detention, human rights organizations continued to report occasional violations. Authorities charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. The system frequently was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges.

Investigative detention up to and including trial is legal if a judge determines that it is necessary, and if evidence that a crime has been committed is presented. The law limits immediate detention to 24 hours for in flagrante crimes or to allow investigative detention to begin. In most jurisdictions, the immediate detention is often considerably longer. If the investigation report is detrimental, the judge may order preventive detention, which is limited to six months for minor offenses and one year for major offenses.

The law limits the period prisoners may be held after indictments have been issued but before conviction or sentencing to six months in the case of less serious crimes (those punishable with "correctional imprisonment") and one year in the case of major crimes. However, authorities repeatedly circumvented this provision by filing new charges when the limit was about to expire. The majority of the accused remained in prison during the investigation phase. According to government data, as of December, approximately 52 percent of detainees had not been sentenced. Of those, 70 percent corresponded to cases filed in the previous six months.

*e. Denial of Fair Public Trial.*—While the constitution provides for an independent judiciary, in practice the judiciary was at times susceptible to outside pressure and corruption. The media reported on the susceptibility of the judiciary to bribes for favorable decisions and resolution of legal cases and on judges parceling out cases to outside lawyers who wrote judicial sentences on cases before the court and sent

them back to the presiding judge for signature. Judges occasionally reached decisions based on media influence or political and economic pressures.

The judiciary consists of the National Court of Justice, provincial circuit courts, tribunals, and first instance tribunals. The new constitution created the Constitutional Court, in place of the former Constitutional Tribunal, to hear cases concerning constitutional matters. Citizens may file cases directly with the Constitutional Court. The Judicial Council has more ample powers under the new constitution to provide oversight not just of the judiciary, but also of prosecutors and private attorneys. The Prosecutor General's Office is part of the judicial branch.

The constitution provides for a unified judicial system, which abolished separate military and police judicial systems, although the National Assembly postponed the date of judicial unification. In October the National Court of Justice ordered ordinary courts to begin processing pending and new police and military cases. However, the Judiciary Council, which is responsible for the administration of the judicial system, postponed implementation of that order for 90 days, until specialized judges could be trained and the budget established.

In 2007 the Inter-American Commission on Human Rights ruled that the 2005 appeal by 27 justices of the Supreme Court, who had been replaced by Congress in 2004, was admissible. The case remained pending at year's end.

*Trial Procedures.*—Despite efforts to modernize the court system, the judiciary continued to operate slowly and inconsistently. There were lengthy delays before most cases came to trial. Judges reportedly rendered decisions more quickly or more slowly as a result of political pressure or, in some cases, the payment of bribes. The failures of the justice system contributed to cases in which communities took the law into their own hands, such as mob violence against suspected criminals.

There are no juries in the justice system. Defendants are presumed innocent until proven guilty and 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. The law extends these rights to all citizens. Although a public defender system exists, in practice only 330 attorneys were available to defend the large number of impoverished defendants throughout the country. Of those public defenders, 150 were hired during the year.

Civil society groups, lawyers' associations, universities, and foreign donors supported vulnerable groups that did not have access to legal defense.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The new constitution mandates elimination of military courts and orders military courts to hand over their cases to the National Court of Justice. However, this court—established in December 2008—had not tried members of the military or police at year's end.

Although the law and the previous and new constitutions recognize indigenous communities' right to exercise their own systems of justice based on their traditions and customs, they do not specify how this right would be implemented. This parallel system raised questions of both jurisdiction and conformity to the right to a fair trial.

Reforms to the CPC effective March 24 distorted the criminal justice system by, for example, limiting the length of detention prior to conviction but allowing prosecutors to add new charges, which keep suspects in detention. In addition the new constitution places the prosecutor general within the judicial branch and under its supervision, giving the Judicial Council exclusive power to train, evaluate, and sanction prosecutors. This also threatened prosecutorial independence, since prosecutors are obligated to submit their discretionary decisions regarding the prosecution of a case for review by a magistrate at an adversarial, evidentiary hearing conducted during the investigative phase of the trial. Reforms aimed at providing criminal procedural protection created a more complex system, thus slowing the judicial process. The law increased the number of formal steps in the investigative cycle, with no fewer than 20 hearings needed before preparation for trial hearing (similar to a preliminary hearing), which also includes ruling on motions related to evidentiary matters.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Civilian courts and the Administrative Conflicts Tribunal, generally considered independent and impartial, handle lawsuits seeking damages for, or cessation of, human rights violations. However, civilian lawsuits seeking damages for alleged wrongs by the state were rarely filed since such suits were time-consuming and difficult to prosecute, with judges taking up to a decade to rule on the merits.

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

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the government partially respected these rights in practice. Verbal and legal attacks against the press by President Correa and his government increased significantly during the year, causing relations between the press and the government to deteriorate and reports of indirect censorship and self-censorship to increase. Nonetheless the independent media remained active and expressed a wide variety of views, including those critical of the government.

On October 28, authorities arrested Giancarlo Zunino and Felix Pilco, members of activist group New Civic Union, and placed them in pretrial detention pending an investigation into charges of “separatism.” The prosecutor ordered their arrest for hanging placards around Guayaquil saying “Guayaquil Declares President Rafael Correa Persona Non Grata.” On November 6, a judge released them on a \$500 bond. Attorneys for the accused said they would bring a case against the prosecutor and judge to the Constitutional Court.

President Correa regularly used his weekly radio and television address and other public appearances to criticize the media and accuse it of bias, frequently naming specific reporters and outlets. Several journalists and individuals involved in local press associations reported that Correa’s “systematic” verbal attacks against the media created “a hostile environment for journalists.” They also noted similar behavior exhibited by other high-level government officials.

On January 17, Correa criticized the Teleamazonas channel for not paying taxes on a regular basis. On May 2, Correa stated that the press was “a grave political enemy [that] needs to be defeated.” He listed what he considered the “worst” media outlets in terms of corruption. On July 18, Correa attacked the newspaper El Comercio for not verifying its sources when reporting a statement by the former governor of Azuay that he had warned President Correa about his brother’s contracts with the government. During his August 10 inaugural speech, Correa stated that his “greatest adversary” throughout his previous term had been the press, asserting that it took on a political role even though it had “no democratic legitimacy” because it was not elected.

On July 18, Fernando Alvarado, Director of Public Relations and Communication for President Correa, said he would not communicate directly with the private press and would only make official announcements through state-owned media. On August 4, Alvarado submitted a formal complaint to the Inter American Press Association (IAPA) against Expreso general editor Juan Carlos Calderon and columnist Jorge Vivanco for exhibiting what he called “discriminatory” behavior against journalists from the state-run online newspaper El Ciudadano. According to Alvarado, both Calderon and Vivanco refused to be interviewed by the government paper regarding their articles criticizing the government.

In March the IAPA General Assembly asserted that the government continued to “systematically threaten and insult the press and journalists” and limit their access to information. Between January and August, there were more than 30 reported cases of harassment (threats, attacks, or arrests) against journalists or other representatives of the press and four break-ins or robberies of media outlets.

On February 11 in Quito, prosecutor Luis Ramiro Sanchez threatened Angelo Chamba, a photographer for the newspaper Hoy, and a police officer attacked Chamba while he was covering the arrest of another journalist accused of a crime. Two police officers put Chamba in a vehicle, threatened him, and took away his camera, radio, and cell phone. They held Chamba for 30 minutes and then released him. The following day he appeared in court to continue his coverage of the same story, and police confiscated his camera again and reviewed the photos on it.

On March 13, Emilio Palacios, editorial writer for the newspaper El Universo, received death threats via e-mail, which referenced his March 1 piece criticizing Correa for his weekly attacks on the media. At Palacio’s request, the government agreed on March 19 to provide the journalist and his family protection.

On July 3, armed men broke into the offices of the magazine Vanguardia, threatened the employees, and raided their computers and files. On July 7, two armed men assaulted Jose Luis Estrada, the magazine’s general manager, outside his office and stole his briefcase and personal computer; the two incidents were not proven to be connected.

There were several incidents of crowds or individuals within crowds assaulting and yelling insults at journalists covering a protest or event. There also were a few high-profile cases of indirect censorship of the media by the government.



On March 6, Jose Toledo, vice president of the news division of three television channels that the government had confiscated in July 2008, resigned less than a year after he was appointed to the position following the state takeover of the stations. In resigning he cited political pressure to favor government candidates in coverage of the April elections. At year's end the government continued to control those three channels—Gamavision, TC Television, and a cable station, CN3 Cablenoticias.

There were also instances of the government utilizing legal mechanisms to restrict the media, including use of libel laws to suppress criticism.

On May 18, an audit commission created by the new constitution found over 700 irregularities in its examination of 1,637 radio and television frequency concessions, among them expired concessions, “clandestine frequencies,” and monopolistic behavior. Due to the report's inconsistencies, however, in August the government created a new commission to analyze the report and provide recommendations for subsequent legal action. The report had not been released by year's end.

On June 3, the government's television and radio regulatory agency, the National Radio and Television Council (CONARTEL), issued its first sanction against an independent television station, Teleamazonas, for showing violent images of a bullfight during “family” hours, resulting in a \$20 fine imposed on the station. On June 25, CONARTEL sanctioned the station a second time with a \$40 fine for reporting on a “clandestine vote counting center,” which CONARTEL decided was based on “rumors” instead of hard evidence. The government dissolved CONARTEL in July during a reorganization of the telecommunication sector that was previously announced in October 2008.

On August 29, President Correa demanded closure of Teleamazonas due to the station's alleged illegal airing of a clandestine audio tape on August 25 that purportedly captured the president and other government officials discussing how they altered language in the new constitution after it had already been approved by the National Assembly. President Correa accused the station of breaking the Broadcasting Law by reproducing covertly acquired recordings, “spying on the president,” and “threatening national security.” On September 2, a Correa government spokesperson retracted Correa's statement and asserted that the government would follow due process. A third government investigation of Teleamazonas concerned alleged misinformation about gas exploration on the island of Puna aired by the station, which ultimately led to a 72-hour suspension of programming, announced by the superintendent of telecommunications (SUPERTEL) on December 22.

Also on December 22, SUPERTEL announced that the radio station La Voz de Arutam, broadcasting in Morona Santiago Province to the Shuar indigenous community, would lose its frequency rights for inciting violence during indigenous protests in late September that led to the death of a Shuar protester. The station appealed the loss of frequency decision, allowing it to remain on the air, and the case was pending at year's end (see section 2.b.).

The new constitution declares the frequency spectrum a nonrenewable resource owned by the state and mandates that the state receive no less benefit than the company involved in the exploitation of that resource. It prohibits oligopolies or monopolies in the ownership of means of communications and in the use of frequencies and precludes financial groups, their legal representatives, stockholders, and board members from participating in the control of the “social means of communication” in terms of capital and investment. It also states that the social communication system will assure the exercise of the rights of communication, information, and freedom of expression.

The Correa administration enforced a provision in the Radio and Television Broadcasting Law that requires all stations to broadcast at no charge government programs on education and health issues for up to an hour per day (Mondays through Saturdays). This law also mandates the broadcast of messages and reports by the president and his cabinet free of charge. The new constitution maintains the previous constitutional provision stating the right of all persons to receive information that is true, verified, timely, contextualized, pluralistic, and without prior censorship. It also includes a provision stating that the law will regulate the informational, educational, and cultural content of the programming of communication outlets.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available in larger cities, but access in the most remote locations was poor. In November the National Telecommunications Secretariat reported that there were 2,034,000 Internet users, approximately 14 percent of the population.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of peaceful assembly, and the government generally respected this right in practice. Security forces used force and tear gas to quell some violent demonstrations, resulting in several injuries. Public rallies require prior government permits, which generally were granted, although exceptions occurred.

In January several persons were injured when they blocked roads in the southern provinces of Azuay, Zamora Chinchipe, Loja, and Morona Santiago to protest the government's proposed law on mining. On January 5, residents of Pueblo Nuevo, Azuay Province, beat two police officers and held one of them prisoner for 36 hours. On January 7, altercations between the police and Pueblo Nuevo residents resulted in several injured, including schoolchildren who were affected by tear gas.

On September 29, Bosco Wisum was killed in Morona Santiago Province during a Shuar indigenous protest against a proposed water law and the extant law on mining. Preliminary reports noted that Wisum was likely killed accidentally by other protesters when police arrived to clear the barricaded road. At year's end, the government and the National Assembly were investigating the incident.

On April 9, a judge dismissed the case against six students prosecuted for having offended President Correa during the

August 2008 altercations between the police and university students during and after the president's radio and television address broadcast from the Catholic University of Guayaquil.

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right in practice.

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

The government requires religious groups to register.

*Societal Abuses and Discrimination.*—Muslim leaders reported that members of their community occasionally experienced discrimination when applying for work or housing. There was an isolated report of an anti-Semitic act of graffiti on a wall in Quito. There were no other reports of societal abuses or discrimination based on religious affiliation, belief, or practice.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations, such as the International Organization for Migration (IOM), in assisting refugees and asylum seekers.

The law prohibits forced exile, and the government did not use it.

*Protection of Refugees.*—The new constitution recognizes the rights of asylum and refuge, including "special protection in view of guaranteeing the full exercise of their rights." The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion and return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government also provided temporary protection to individuals who might not qualify as refugees under the 1951 convention or the 1967 protocol. This included providing services to the continuing flows of Colombians crossing the northern border throughout the year.

The government reported that during the year, it received 12,363 applications for regular refugee status and recognized 5,067 refugees. On March 23, the government fully implemented an "enhanced registration" program that improved the refugee registration process for Colombian asylum seekers so that those in need of international protection could be interviewed, assessed, and issued documentation on the same day. Previously, the refugee registration process could take one to two years to complete, and more than 30,000 cases were pending in the regular process at the beginning of the year. From March to December, the government recognized more than 21,000 refugees under the enhanced registration program. The program was expected to target up to 50,000 Colombian refugees for registration and documentation over a 12-month period in the northern border region. Applicants rejected in

either the regular or the enhanced refugee process have a legal right to appeal; after appeals are exhausted, they have 30 days to leave the country. There were no reports of anyone without refugee status being expelled. While the UNHCR and the government reported difficulty dealing with the number of applicants and appeals, both the UNHCR and the IOM supported the government refugee office's efforts to streamline its decision-making and appeals processes and reduce its case backlog.

There were 45,820 recognized refugees in the country. The government and UNHCR estimated in 2008 that approximately 135,000 persons were in need of international protection, of whom approximately 68,000 were not registered in the asylum process at that time.

Colombians accounted for 90 percent of asylum seekers, and the rest originated from a wide variety of countries, including Cuba, Peru, Haiti, Nigeria, Pakistan, and Bangladesh. The law provides persons granted refugee status the right to work; however, this right is not extended to asylum seekers. The law provides recognized refugees and asylum seekers the same access to public health services as citizens. The presentation of any identity document is sufficient to ensure access to public educational institutions.

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

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

*Elections and Political Participation.*—In accordance with the new constitution, elections for offices at all levels of government were held on April 26 and June 14. On April 26 voters reelected Rafael Correa to a four-year presidential term. In addition voters chose a vice president, provincial prefects and vice prefects, mayors, National Assembly members, and city councilors; a total of 1,969 offices. Election of five members to the Andean Parliament and 3,985 rural parish council members took place on June 14. Organization of American States and European Union observers concluded that the elections were generally free and fair, with local irregularities, and highlighted areas for further improvement in subsequent elections.

Although the international and domestic observation teams reported no major fraud, there were some reports of missing or marked ballots, counting and vote calculation irregularities, and incidents of violence.

In 2008 along with the new constitution, voters approved a "transition regime," which regulated the transition to the new institutional order. The interim Constitutional Court and National Court of Justice remained in place. An interim Citizen Participation and Social Control Council, an institution under the newly created Transparency and Social Control branch of government, was installed on January 26 and disbanded on September 9 when the law regulating the selection of the permanent council went into effect. On the basis of that law, the National Electoral Council began supervising the merit-based selection of members of the permanent Citizen Participation and Social Control Council. The Transparency and Social Control branch of the state is designed to promote citizen participation and prevent and combat corruption.

The constitution provides for state-promoted, gender-balanced representation in the public sector, including in decision-making positions, and mandates government adoption of affirmative action policies to promote the participation of affected groups. The new constitution grants suffrage to members of the armed forces and the police, and lowers the minimum voting age from 18 to 16.

The new constitution provides for gender balance in the lists of political parties' candidates for the National Assembly and other representative institutions. Voters elected 40 women to the 124-seat National Assembly, which was installed on July 31. As of December there were nine women in the 27-member cabinet and two female secretaries of state with the rank of minister.

There was one Asian-Ecuadorian but no Afro-Ecuadorians or indigenous persons in the cabinet.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. The World Bank's worldwide governance indicators reflected that government corruption was a serious problem.

In June local media reported that businessman Fabricio Correa, the brother of President Rafael Correa, had signed public sector contracts worth over \$80 million during the Correa administration, raising public concerns of corruption. On September 5, in response to the allegations, President Correa announced he would nul-

lify all government contracts connected to his brother. On September 9, Comptroller General Carlos Polit announced that his office's review of the public contracts in question yielded contracting "irregularities" including 31 instances of unfulfilled jobs or orders by Fabricio Correa's companies. According to the comptroller's report, the total amount in government contracts received by Correa's companies was \$167 million. In response to the nullification of his contracts, Fabricio Correa leveled his own accusations of corruption within his brother's administration and, in support of this, submitted alleged evidence against several of President Correa's cabinet members to the Prosecutor General's Office. The Prosecutor General's Office and the National Assembly both opened investigations into Fabricio Correa's accusations; the investigations continued at year's end.

In August a multinational oil company provided government authorities with clandestinely recorded videos that it alleged exposed a bribery scheme related to a multi-billion dollar environmental lawsuit pending against it in an Ecuadorian court. The judge who had been presiding over the case, as well of some members of President Correa's Proud and Sovereign Fatherland Movement, were shown on the recordings. The Prosecutor General's Office opened an investigation into the allegations, while plaintiffs in the lawsuit claimed the videos were fabricated.

The prosecutor's investigations continued into the July 2008 criminal investigation of former ombudsman Claudio Mueckay for alleged misuse of public funds and the August 2008 case of irregularities involving contracts and staff members advising the Constituent Assembly.

On January 7, authorities imprisoned former minister of sports Raul Carrion, who resigned in December 2008 after three of his advisors were placed under preventive detention during an investigation of their alleged illicit enrichment and asset laundering, among other charges. On April 27, a National Court of Justice criminal tribunal freed him, but reversed its decision on May 5 amidst widespread criticism, including by the Prosecutor General. Carrion was released from prison on December 22 after reaching the statutory limits on preventive detention. At the same time, the prosecutor dismissed the charges against him for asset laundering due to insufficient evidence. However, Carrion still had fraud charges pending, and the judicial proceedings continued at year's end.

In December 2008 President Correa created via presidential decree the National Secretariat for Management Transparency, tasked with investigating and reporting corruption cases and promoting transparent practices in the public administration.

The new constitution states that all persons have the right to access information gathered by public or private organizations receiving state funds. It further requires that the information be available in the native language of the citizen. The 2004 Law on Transparency and Access to Information defines these rights, and requires that government agencies make available to the public, free of charge, all information gathered by organizations that receive public funds, including unions and NGOs. Personal information about individual citizens, and information regarding national security, are excluded. As a result, government agencies increasingly put budget information, functions, organizational information, lists of government officers, and all official notices on the Internet, in addition to responding to written requests.

An NGO's year-long study of this law's implementation found that while many agencies lagged in publishing the required information on the Internet, 97 percent of written requests for information were answered, and only one petition did not receive a response. Agencies responded to 63 percent of requests within the time limit established by law. In a few cases, the NGO noted that the specific information requested was not received, either because it did not exist or it was not accessible to the official searching. The report noted that many government agencies did not have the budgets required to fully implement the law, nor the technological systems to make information easily searchable. Other NGOs rated government compliance with publishing the required data on their Web pages at about 70 percent, although the data may not be complete or accurate.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials cooperated with the groups but often did not act on their recommendations.

An Ombudsman's Office focused on human rights problems. The new constitution describes the Ombudsman's Office as an independent part of the judiciary established to ensure equal access to justice and the protection of rights. The office has 50 members and regularly presents cases to the prosecutor's office, but with limited

success. In July 2008 the Constituent Assembly appointed an interim ombudsman. As with many of the restructured or new institutions established by the new constitution, this organization was not yet in final form. Once the permanent Council for Citizen Participation and Social Control is established in mid-2010, it is expected to create a merit-based system for receiving nominations and selecting the ombudsman.

The Commission for Truth, created in 2007 to investigate alleged human rights violations (particularly during the 1984-88 period), investigated 150 cases of human rights violations but did not release its report by year's end (see section 1.a.).

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

The new constitution prohibits discrimination based on race, gender, disability, language, or social status; however, women, persons with disabilities, indigenous persons, Afro-Ecuadorians, gays, lesbians, bisexual, and transgender persons continued to face discrimination.

*Women.*—Although the law prohibits violence against women, including within marriage, abuses were widespread.

The law criminalizes rape and provides a penalty of up to 25 years in prison. The law does not criminalize spousal rape, although under family law spousal rape is considered a type of violence. The penalty for rape where death occurred is from 16 to 25 years' imprisonment. As of October there were 3,547 reported rapes, 914 cases where charges were filed, and 294 cases prosecuted successfully. Many rapes were not reported due to the victim's reluctance to confront the perpetrator.

The most pervasive violations of women's rights involved domestic and sexual violence. Although prohibited by law, both were widespread and vastly underreported. The Ministry of Government's Office of Gender reported, based on preliminary and partial reports it had received as of October 31, 48,022 cases of sexual, psychological, or physical mistreatment of women and 7,040 cases involving male victims as of June. Police and judicial reluctance to act on domestic violence cases was an additional factor. Authorities referred many women who reported domestic abuse or sexual crimes to the judicial system, but gaps in this process contributed to dropping charges against the perpetrators.

While the new constitution eliminated the 34 special Police Stations for Women and Families, which formerly handled issues such as domestic violence, the government established new joint service centers to assist citizens. These centers provided assistance free of charge to victims of domestic and gender violence on legal issues, social and medical assistance, and police protection. The law provides penalties for domestic violence of a fine of up to \$28 or seven days in prison and gives family courts the power to remove an abusive spouse from the home if continued cohabitation creates a risk to the victim of abuse.

The new constitution provides for courts specializing in women and family issues, which are to be under the judicial branch and have the power to authorize restraining orders prohibiting the abusive spouse from approaching the victim or her place of employment or study; to prohibit the abusive spouse from persecuting or intimidating the victim or any member of her family; to reinsert the victim into the family home, if shared, while simultaneously removing the abusive spouse from the premises; and to order any treatment deemed beneficial to the affected family. In November the Constitutional Court established a Regional Observers Office for Judicial Decisions that would review court decisions from six Latin American countries to report whether those countries comply with international norms, including UN declarations, involving women's rights.

The new constitution affords women an array of benefits in the economic, political, and social areas. While women's organizations applauded these provisions, they noted that many legal and financial steps remained to implement the reforms. Meanwhile, a transitional council handled projects in all provinces, focusing primarily on equal opportunities, public policy programs toward women, and lines of credit for women's businesses. The law stipulates that the government should formulate and implement policies to achieve gender equality, incorporate a gender focus into plans and programs, and provide technical assistance to implement the law in the public sector.

Adoption of the new constitution restructured the former National Council on Women (CONAMU)—whose main role was the enactment and enforcement of public policies for the advancement of women's issues and rights. The council became part of the Secretariat on Peoples, Social Movements, and Citizen Participation, a cabinet-level ministry charged with ensuring the participation of the citizenry in government decision making, especially among historically disadvantaged groups.

Prostitution is legal for persons over the age of 18 as long as the prostitution businesses are registered with the government and follow health regulations. Trafficking in persons for prostitution was a problem.

Despite the legal prohibition of sexual harassment, women's rights organizations described harassment in the workplace as common. CONAMU and subsequently the transitional council were charged with designing public policies to promote women's human rights and equality in cases of sexual harassment.

The new constitution acknowledges sexual and reproductive rights. The Free Maternity Care Law protects the sexual and reproductive rights of women and calls for free prenatal care, family planning services, and cancer screening. According to statistics from the Population Reference Bureau, 69 percent of women had skilled attendants present during childbirth, and 99 percent had health care providers present during childbirth. A 2004 survey of demographic and maternal health care noted that over 70 percent of women used contraceptives, with a 5 percent "unmet need" for family planning. The gap between the rural and urban contraceptive prevalence rate was small, at 67 percent and 77 percent respectively. More than 36 percent of modern contraceptive method users received these services through government-sponsored programs. The government began implementing a national HIV/AIDS program to prevent mother-to-child transmission of the disease and provided free screening for all women. The law also promotes a greater role for men in care giving by providing paternity leave of up to 10 days.

Despite legal protection of women's rights in politics, the home, and employment, societal discrimination against women was pervasive, particularly with respect to educational and economic opportunities for older women and for those in the lower economic strata. Although women enjoyed the same legal status as men, women often did not receive equal rights in practice. According to the government, for example, women received approximately 65 percent of the pay received by men for equal work. Women's advocates alleged that culture and tradition inhibited achievement of full equality for women. There were fewer women than men employed in professional work and skilled trades. Little reliable data existed regarding the situation of women within the tightly knit indigenous communities.

The Ecuadorian Women's Permanent National Forum included more than 320 women's organizations and promoted social, economic, and cultural change, including increased political participation by women throughout the entire constitutional drafting process carried out in 2007-08 by the Constituent Assembly. According to the forum, participation by women was greater in the 2008 constitutional referendum than in previous elections.

*Children.*—Citizenship is acquired either through birth in the country or by birth to an Ecuadorian mother or father abroad (until the third generation). Since 2006 the government encouraged civil registration and made it easier for adults and children to register. The Ministry of Health implemented a program to register newborns at birth in hospitals and clinics, and mobile registration centers reached out to rural areas regularly. As a result, the number of unregistered citizens fell 40 percent, from 1.5 million to less than 900,000. Of those, 100,000 were indigenous persons and 300,000 were under 18.

Authorities did not use lack of documentation to deny access to education, therefore some parents reportedly did not understand the importance of registering their children. Other government services, however, including welfare payments and free primary health care, require some form of identification. The registration campaign was designed in part to teach adults about the benefits of registering themselves and their children, as well as their obligations as citizens.

The new constitution raised the minimum 10-year requirement of schooling to 15 years; however, due to shortages of schools, inadequate school funding, and the comparatively high cost of books and uniforms, the government rarely enforced either the old or new minimum requirement.

There was no societal pattern of abuse against children.

Commercial sexual exploitation of minors remained a problem; it was punishable with six to 16 years of imprisonment. The law prohibits child pornography, with penalties of six to 16 years' imprisonment. The law covers statutory rape; the age of consent is 14. The penalty for statutory rape is 16 to 25 years' imprisonment.

More than 20 NGOs promoted child welfare. The UN Children's Fund and several private organizations were active in programs to assist street children.

*Trafficking in Persons.*—The government recognized that trafficking in persons was a national problem, and the law prohibits such trafficking. Nonetheless, there were reports that women and children were trafficked within, to, from, and through the country. The country was both a source and a destination for trafficking.

The Child Welfare Police reported that the majority of identified trafficking victims were from the provinces of Pichincha, El Oro, and Orellana.

Traffickers were mainly criminal gang members specializing in movement of persons, proprietors of small businesses such as bars or brothels, and illicit employment brokers. Recruitment modalities varied depending on the type of exploitation. In the case of sexual exploitation, victims were lured romantically or with promises of legitimate employment and then forced into prostitution. Recruiters for forced labor offered parents education and work opportunities for their children.

The law criminalizes trafficking in persons and provides for prison terms of six to 35 years. The law also provides for penalties of six to 12 years in prison for promoting sexual tourism. From April through December, authorities opened 41 cases involving trafficking in persons, forced labor, or sexual exploitation; data on convictions were not available at year's end.

The government had a specialized antitrafficking Police Unit with 18 investigative agents and two intelligence analysts. During the year this unit received 46 reports of human trafficking, conducted 15 investigations or "sting" operations, detained 17 suspects, and rescued 44 trafficking victims, according to the National Judicial Council.

Numerous municipalities had antitrafficking action plans, prevention campaigns, and antitrafficking networks working in conjunction with the national government. The Trafficking in Persons and Sexual Crimes Unit of the Prosecutor's Office in the city of Cuenca reported four cases of trafficking in persons, which were related, respectively, to child pornography, labor exploitation, sexual exploitation, and forced begging. All of these cases remained under investigation at year's end. Other cases included kidnapping and selling newborn children, and children used to transport drugs and commit petty theft.

The government provided shelter and assistance to trafficking victims. In Pinchicha Province, for example, authorities provided direct assistance, including reintegration opportunities, to 71 trafficking victims during the year. In December a court in the province sentenced a trafficker arrested in 2006 to eight years' imprisonment for sexually exploiting an adolescent.

The Ministries of Government and Foreign Affairs, the National Child and Family Institute, and the National Secretariat for Migrants coordinated the return of five Ecuadorian victims of labor exploitation from Colombia and Chile. The Ministry of Tourism launched a campaign in 24 provinces to prevent sexual exploitation of children and adolescents. In October an investigation led to the arrest of a woman traveling from Ecuador to Venezuela with six children and four adolescents. None of the children had documents permitting them to leave the country, and the prosecutors suspected the woman was part of a ring to exploit children as domestic laborers. At year's end, the case remained under investigation.

In July the government established a state-run integrated database system to collect important statistical information on trafficking. The IOM taught and provided technical assistance to different state officials, mainly at the Ministry of Justice, on the administration and use of this technical tool.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, and the provision of other state services. The interagency National Council on Disabilities oversees government policies regarding persons with disabilities. Although the law mandates access to buildings for persons with disabilities, the government did not fully enforce it.

For the April 26 elections, the National Electoral Council (CNE) printed ballots in braille only for the presidential race. According to the CNE, due to the significant number of candidates running for office and the complex voting system—for entire lists or candidates among lists—the CNE did not print ballots in braille for the remaining offices at stake on April 26 or for the June 14 election. Instead, the CNE allowed blind individuals to have assistance from a relative while voting and provided training to CNE field coordinators, as well as police and military officials, to raise awareness on specific needs for voting by persons with disabilities. The CNE provided sign language translators and made efforts to ensure that voting precincts were fully accessible to persons with disabilities.

The new constitution extends benefits to persons with disabilities, particularly in the areas of education, employment, and access to social security. The law requires the hiring of persons with disabilities in all public and private enterprises with more than 25 employees. According to a radio address by Vice President Lenin Moreno on November 28, 92 percent of public and private companies complied with the law. Moreno said the remaining companies would be sanctioned, but did not

specify how. An initiative, "Ecuador without Barriers," led by the vice president, helped create an unspecified number of jobs for persons with disabilities. In November the municipality of Guayaquil, the largest city in the country, opened debate on a regulation that would require all businesses and public institutions to improve access for the disabled and the elderly. The final regulation had not been issued as of year's end.

*National/Racial/Ethnic Minorities.*—Afro-Ecuadorian citizens, who account for about 3 percent of the population, suffered pervasive discrimination, particularly with regard to educational and economic opportunity.

The Afro-Ecuadorian Cultural Center estimated that 70 percent of Afro-Ecuadorians lived in poverty. Afro-Ecuadorian organizations noted that, despite the absence of official discrimination, societal discrimination, including stereotyping, continued to affect them. For example, they continued to assert that the police stopped Afro-Ecuadorians for document checks more frequently than they stopped other citizens and that employers often would not interview persons whose job applications carried Afro-Ecuadorian photos. There were no special government efforts to address these problems, except for the Municipality of Quito, which in December 2008 prohibited private and public institutions in Quito from accepting curriculum vitae with pictures.

The Center for Racial Equity and Development reported increased violence by the public forces. According to the center, on January 10, members of the armed forces detained and reportedly tortured three young Afro-Ecuadorian men in the area of Carcelen, Quito. The ombudsman determined that the attack was based on racial discrimination and recommended that the officers be dismissed. The military court that heard the case imposed an administrative measure of two days' detention. The civilian prosecutor to whom the case was referred said that a criminal investigation in civilian courts could not proceed because the case had already been tried in military court and defendants cannot be prosecuted for the same offense twice. (Military courts were abolished later in the year.)

The new constitution declares the state to be plurinational, affirms the principle of nondiscrimination by recognizing the right of indigenous, Afro-Ecuadorian, and Montubio communities to restitution for acts of discrimination, and mandates affirmative action policies to ensure the representation of minorities. On October 13, the government published an Executive Decree with a National Pluricultural Plan to Eliminate Racial Discrimination. Among other provisions, it calls for all public sector bodies to ensure that "access to labor" reflects the percentage of the population of Afro-Ecuadorians, indigenous persons, and Montubios (a rural, farming population recognized as an independent ethnic group).

*Indigenous People.*—Estimates of those who maintained their indigenous cultural identity and lived in indigenous communities varied between 7 and 30 percent of the population. The vast majority of indigenous citizens resided in rural areas, including in the highlands and the Amazonian provinces. The literacy rate among the indigenous was approximately 72 percent. Despite their political influence and the advocacy efforts of grassroots community groups, indigenous persons continued to suffer discrimination at many levels of society and, with few exceptions, were at the bottom of the socioeconomic scale.

Arable land was scarce in the more heavily populated highland areas, where high infant mortality, malnutrition, and epidemic disease were common among the indigenous population. Electricity and potable water often were unavailable. Although the rural education system was seriously deficient, many indigenous groups participated with the Ministry of Education in the development of the bilingual education program used in rural public schools.

The new constitution strengthens rights of indigenous peoples; it declares the state plurinational, recognizing Kichwa and Shuar as "official languages of intercultural relations," and specifically recognizes indigenous justice. Existing law also 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. Land in many cases is titled to the indigenous community, and some indigenous groups hoped to expand these areas. In other cases, indigenous groups managed a reserve that the government set aside for biodiversity protection. Indigenous persons also have the same civil and political rights as other citizens.

The former and new constitutions grant indigenous persons the right to participate in decisions about the exploitation of nonrenewable resources that are located in their lands and that could affect their culture or environment. The new constitution allows indigenous persons to participate in the benefits the projects may bring and to receive compensation for the damage that could result. It mandates, in the



case of environmental damage, immediate corrective government action and full restitution from the responsible company. However, some indigenous organizations asserted a lack of consultation and remedial action.

Indigenous groups lobbied the government, enlisted the help of foreign and domestic NGOs, and mounted protests in attempts to win a greater share of oil revenues and a greater voice in natural resource and development decisions. Settlers, drug traffickers, and loggers illegally encroached into indigenous territory. Corrupt local officials, a lack of political will, and divisions among and within indigenous communities undermined indigenous efforts to stop the flow of illegally harvested timber. Widespread environmental damage, in part due to deforestation and petroleum production, constituted another serious problem.

The Ombudsman's Office had representatives in indigenous communities throughout the country. These had responsibility for promoting human and indigenous rights among indigenous communities and providing specific advisory services to these groups.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The new constitution includes the principle of nondiscrimination and establishes choice of sexual orientation as a right. Homosexual acts are not criminalized. Transexuals have the right to identify themselves by their chosen gender on their national identification cards, according to a court case in Pichincha Province. Although the law prohibits discrimination based on sexual orientation, gays, lesbians, transgender persons, and transvestites continued to suffer discrimination from both public and private bodies. In September the National Electoral Council published rules governing the selection of the national prosecutor general, comptroller, members of the Council for Citizen Participation, and directors of certain regulatory bodies that gave lesbian, gay, bisexual, and transgender (LGBT) candidates for those positions two additional points on their applications. The measure was designed to help traditionally disadvantaged groups participate more effectively in government.

LGBT organizations existed and were not aware of incidents of violence perpetrated by the police or other government agents towards the establishment of these organizations. Such groups organized multiple Gay Pride marches in the last decade with the authorization of pertinent authorities and received police protection.

Despite the lack of official discrimination, societal discrimination was present. The NGO Kimirina advised that members of the LGBT community believed that their right of equal access to formal education and employment was frequently violated. The LGBT population involved in the sex industry reported abusive situations, extortion, and ill-treatment by security forces but did not file or press charges in the Office of the Public Prosecutor.

The April 2008 case in which a policeman reportedly pushed and punched a member of a sexual minority group remained under investigation at year's end.

*Other Societal Violence or Discrimination.*—The new constitution specifically prohibits discrimination directed at persons with HIV/AIDS. There was no societal violence against persons with HIV/AIDS; however, NGOs reported that individuals with HIV/AIDS believed they were discriminated against, including on issues such as equal employment opportunities and access to appropriate health care.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—While the law provides most workers with the rights to form and join trade unions of their choice, legal protections of these rights were inadequate, sometimes failing to deter employers from retaliating against workers for organizing. In May an employer laid off 26 workers in a tuna factory in Manabi Province after they formed a union. In July managers fired 46 workers at a wood plantation and 15 workers at a hospital after forming unions. Members of the police, the military, and most public sector employees (those who fall under the civil service law) were not free to form trade unions. Approximately 1.2 to 3 percent of the workforce was organized.

While employees of state-owned organizations enjoyed rights similar to those in the private sector, the law prohibits the majority of public sector employees from joining unions or exercising collective bargaining rights. Under the law, employees that do not fall into the technical, administrative, or professional categories may join a union and bargain collectively. Public sector employees in strategic sectors, as designated in the new constitution, may not take any action that paralyzes those sectors, including striking. The constitution lists health; environmental sanitation; education; justice; the fire brigade; social security; electrical energy; drinking water and sewerage; hydrocarbon production; the processing, transport and distribution of fuel; public transport; and post and telecommunications as strategic sectors. Most

public employees maintained membership in a labor sector association; such associations are not allowed to strike or bargain collectively.

Despite the law, however, teachers, state oil refinery workers, and workers in an electricity generating company held strikes during the year. The teachers union called for strikes intermittently through the year, most recently from September 15 to October 7. In November workers protested at an electricity generating company in Guayaquil during a surprise visit by President Correa. Correa told reporters that he would have the organizers investigated under the article in the penal code prohibiting interference in the provision of public services. By December, 22 employees had been summarily dismissed, with the approval of the Ministry of Labor, for interrupting services to the public and "insulting the majesty of the president." The director of the firm also asked the prosecutor to charge the employees with sabotage and terrorism. At year's end the workers had hired lawyers to challenge the decisions.

The new constitution, whose worker rights provisions require the adoption of implementing laws, terms worker rights "irrevocable"; provides for the right to unionize and to strike (except in instances which might cause "paralysis" in strategic sectors); and commits state support for democratic unions.

The labor code and the constitution require workers in state enterprises to be represented by a single labor union. The law does not require reinstatement of workers fired for union activity but does require compensation and fines. The new constitution prohibits the use of outsourcing and of discriminatory criteria in hiring. Outsourcing includes subcontracting, third party, and hourly contracts. The law prohibits these activities except in the areas of security, catering, message delivery services, and cleaning if those services are not an integral part of the company's productive processes. The law permits part-time contracts, but only with full-time employee benefits. Public sector enterprises may subcontract for certain technical workers with the Ministry of Labor's approval.

There were few restrictions on the right of private-sector workers to strike, although a 10-day period is required before a strike can be declared. The law allows solidarity strikes or boycotts of three days if the Ministry of Labor approves them. In some industries, during a legal strike, workers may take possession of the factory or workplace (thus ending production at the site) and receive police protection during the takeover. However, in other industries, such as agriculture, the law requires a 20-day waiting period from the day the strike is called. During this time workers and employers must agree on how many workers are needed to ensure a minimum level of service, and at least 20 percent of the workforce must continue to work in order to provide essential services. The law provides that "the employer may contract substitute personnel" only when striking workers refuse to send the number of workers required to provide the minimum necessary services, although in practice this law was not enforced. The law protects strikers and their leaders from retaliation.

The law does not provide the majority of public workers with the right to strike, although they were able to organize and bargain collectively. Individual workers may take complaints against employers to the Labor Inspection office if they are still employed by the firm, or to courts charged with protecting labor rights if they are no longer employed by the organization. Unions may also take complaints to a tripartite (union, employer, government) arbitration board established to hear these complaints. In December the tripartite commission decided in favor of the union in the case of striking workers at a tire manufacturing company. The law includes a provision that striking public-sector workers are liable to between two and five years in prison.

Pursuant to a temporary law passed in 2008 calling for revision of all public-sector collective bargaining agreements to eliminate "excessive benefits" for workers, at year's end, 64 collective bargaining contracts had been reviewed, affecting approximately 46,000 workers. Excessive benefits include paid leave for professional training and union related/labor rights training; seniority bonuses; additional vacation (accrued due to seniority); the right to free or discounted public services; and the right to have a commissary, among other items.

A presidential decree signed on April 30 empowered SENRES (National Secretariat for the Development of Public Sector Human Resources and Remuneration) to evaluate the employment of workers in the public sector to establish which workers fall into the category of manual laborers and which are classified as technical or administrative workers. Workers who are classified as technical and administrative workers will be subject to the Civil Service and Administrative Career Law (LOSCA) and not the labor code. The LOSCA does not provide any assurances for the right to freedom of association or the right to bargain collectively. According to an NGO specializing in promoting worker rights, a likely result of this process is

that 75 percent of union members in public sector enterprises will no longer be able to legally join a union or have a collective bargaining agreement. Those who work in strategic sectors already are not legally permitted to strike, although they may participate in collective bargaining negotiations.

In August the government officially incorporated SENRES into the Ministry of Labor Relations.

*b. The Right to Organize and Bargain Collectively.*—The law requires all private employers with 30 or more workers belonging to a union to negotiate collectively when the union so requests. Collective bargaining agreements covered only 140,000 workers of the total workforce of 4.3 million. Most of the economically active population was employed in the agricultural sector or the urban informal sector; the vast majority of these workers were not organized. The law allows businesses to hire workers on individual contracts.

There is special legislation regulating labor in export processing zones. Most workers in export processing zones are hired on temporary contracts and as such do not appear to be protected by key elements of the labor code.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that children were trafficked for the purpose of forced labor (see section 6). Forced labor for children and adolescents occurred most often when the children were trafficked as street vendors or domestic servants. Women were sometimes forced into domestic servitude by their traffickers.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits exploitation of children in the workplace and forced or compulsory labor; however, the government did not effectively enforce the law, and child labor remained a problem especially in informal sectors.

The labor code, the child and adolescent code, and the new constitution set the minimum working age for minors at 15 for all types of labor and the maximum hours a minor may work at six hours per day, five days per week. The law lists jobs that are not suitable for children and prohibits minors from working in hazardous conditions, including in agriculture, mines, domestic work, garbage dumps, slaughterhouses, or in jobs requiring exposure to toxic or dangerous substances or loud noises. The law requires employers to pay minors the same wages received by adults for the same type of employment. Penalties for violations of the child labor laws include fines of \$50 to \$300 for parents or guardians and fines of \$200 to \$1,000 for employers hiring children less than age 15. In cases of repeated infractions, the employer's business can be closed.

The Ministries of Labor and of Economic and Social Inclusion and the Minors' Tribunal were charged with enforcing child labor laws, but enforcement, while improving, was not fully effective due to lack of resources. The 2006 National Institute of Statistics and Census's Child Labor National Survey (the latest available information) found that 367,000 children between ages five and 14 were engaged in labor not permitted by law, primarily working in rural areas in the informal sector, compared with 550,000 in 2001. Children worked in the production of bananas, flower, broccoli, sugarcane, and strawberries. They were also involved in brick-making and small-scale gold mining. There were reports of Ecuadorian children working as coca pickers in Colombia.

The government's 29 child labor inspectors inspected workplace locations that specifically employed child labor; these inspectors had the authority to cite violations and sanction companies and employers found to have illegally hired child labor. In January the government began implementation of a second phase of its Child Labor Eradication Program, supporting initiatives to combat child labor in domestic work, garbage collection, mines, slaughterhouses, brick factories, and flower and banana plantations. The objective was to prevent children and adolescents in 60 cantons of 16 provinces from working in these areas. During the year the inspectors conducted 3,992 workplace inspections and removed 2,056 minors working in dangerous conditions in violation of labor laws.

While the Ministry of Labor's Social Service Directorate monitored child labor in businesses such as factories, enforcement in most sectors of the economy remained limited. In urban areas many children under age 15 worked in family-owned businesses in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. Other children were employed in commerce, messenger services, domestic services, and begging. Children as young as five or six often sold newspapers or candy on the street to support themselves or augment family income.

The government supported the Program for the Schooling and Protection of Child Workers, which implemented a workshop program in indigenous communities in five provinces to work with families and schools on the problem of child labor.

The Observatory for the Rights of Children and Adolescents reported that the number of children and adolescents working under conditions of child labor in 2008 decreased to 7 percent and access to education increased to 78 percent.

*e. Acceptable Conditions of Work.*—The new constitution mandates an annual revision of the minimum wage to match progressively the cost of a family's basic needs. The National Council on Salaries, a technical agency under the labor ministry, acts as the negotiating and arbitration arm. A trilateral body composed of representatives from the ministry, the private sector, and labor unions, performs the review each December and must be unanimous in its decision. The minimum wage was \$218 per month, plus mandated annual bonuses equivalent to two months' salary, which did not 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, most workers worked in the large informal and rural sectors without obtaining the minimum wage or legally mandated benefits.

The law provides for a 40-hour workweek and two consecutive days of rest per week. If required to work beyond the standard workweek, workers must be paid overtime. A higher overtime rate is set for working at night. The maximum overtime was 12 hours per week, which generally was respected, except in subcontracting companies, where workers sometimes were required to work up to 28 hours of overtime per week, and in the case of some domestic employees. The Ministry of Labor did not deploy sufficient resources to enforce labor laws.

The Social Security Institute is responsible for enforcing health and safety standards and regulations. In the formal sector, occupational health and safety was not a significant problem. However, there were no specific regulations governing health and safety standards in the small-scale agricultural sector, which accounts for the majority of farms and workers. In practice, primarily due to the lack of labor inspectors, there was no enforcement of safety rules in the small mines that made up the vast majority of enterprises in the mining sector.

The new constitution protects self-employed workers who work in public areas and prohibits the confiscation of their products or work tools, a provision intended to benefit informal sector workers, such as street vendors.

The new constitution provides that workers have the right to a healthy and safe work environment. A worker may request that an inspector from the Ministry of Labor confirm a workplace hazard; that inspector then may close down the workplace. Response time for inspectors ranged from three days in major cities to much longer in the countryside. Workers do not have the legal right to remove themselves from danger prior to the inspection, unless the employer agrees.

## EL SALVADOR

El Salvador is a constitutional, multiparty democracy with a population of approximately 5.8 million. In March voters elected Carlos Mauricio Funes Cartagena of the Farabundo Marti National Liberation Front (FMLN) as president for a five-year term in generally free and fair elections. Funes was inaugurated on June 1. Civilian authorities generally maintained effective control over the security forces.

Although the government generally respected the rights of its citizens, protection of human rights was undermined by widespread violent crime, including the following: gang-related violence, high levels of impunity from prosecution, and judicial corruption. Other significant human rights problems included harsh, violent, and overcrowded prison conditions; lengthy pretrial detention; violence and discrimination against women; abuses against children, child labor, and forced child prostitution; trafficking in persons; violence and discrimination against sexual minorities; and inadequate enforcement of labor laws.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no verified reports that the government or its agents committed politically motivated killings; however, there were reports that security forces were involved in unlawful killings. The Office of the Ombudsman for Human Rights (PDDH) stated that the National Civilian Police (PNC) was responsible for 545 cases of abuse of human integrity, which included unlawful killings, attempted unlawful killings, assaults, and other offenses causing bodily harm. By year's end the PDDH had received 10 complaints of alleged

unlawful killings. The Office of the PNC Inspector General reported that during the year security forces killed 30 persons.

On September 29, unknown assailants disguised as road repair workers shot and killed Roque Feller Melgar, a former legislative deputy for the Christian Democratic Party and mayoral candidate for the National Republican Alliance (ARENA) party. At year's end authorities had not identified any suspects, and continued to investigate the case.

In June unknown actors strangled community activist Gustavo Marcelo Rivera near San Isidro, Cabanas. On July 7, the National Civilian Police (PNC) arrested seven purported gang members for the crime. At year's end authorities continued to investigate the case.

On December 20, unknown assailants shot and killed environmental activist Ramiro Rivera (no relation to Marcelo) in Trinidad, Cabanas. On December 26, also in Trinidad, unknown assailants shot and killed Dora Santos Sorto Rodriguez, wife of environmental activist Santos Rodriguez. At year's end authorities were conducting an investigation of these cases.

There was no further information regarding the July 2008 fatal shooting of Rafaela Hernandez Delgado while she was riding a public bus.

On December 18, an appellate court in San Miguel overturned the dismissal of charges against Shefick Cruz Vasquez and Edilberto Paiz Morales, who were accused in the August 2008 murder of Garcia Amaya. At year's end the PNC Office of the Inspector General reported that both defendants were in police custody awaiting trial.

There was no further information, and none was expected, regarding the case of PNC officer Luis Alfonso Rubi Canales, who was allegedly involved in the 2007 killing of Jose Napoleon Aviles.

At year's end there was no further information, and none was expected, regarding the pending case, and the whereabouts of, PNC officer Elmer Vladimir Lovato Ramos, implicated in the 2006 killing of Cesar Anaya Vanegas.

There was no information available regarding the attorney general's 2008 appeal of the Supreme Court's acquittal of Edwin Rene Sanchez Canjura for two counts of murder and 17 counts of attempted murder, in relation to the 2006 killings of two police officers.

At year's end a decision was pending following the December 2 trial court hearing of the case of Rosa Elba Zelaya de Ortiz for the 2004 murder of Teamster Union activist Gilberto Soto. Santos Sanchez, also charged with the murder of Soto, did not appear at the December hearing and remained at large with a warrant for his arrest.

The Human Rights Institute of the University of Central America reported that by year's end, the government had not taken concrete steps to observe the Inter-American Court of Human Rights' November 2007 ruling against the government for violations of judicial guarantees and rights in the 1994 killing of Mauricio Garcia Prieto.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Upon assuming office on June 1, President Funes terminated the Interinstitutional Committee for the Search for Missing Children Resulting from the Armed Conflict in El Salvador. In August the government announced the establishment of a national search commission to work with nongovernmental organizations (NGOs) to locate persons who were forcibly disappeared during the 1980-92 civil war. By year's end the new commission had not begun operation. The NGO Association for the Search for Missing Children (Pro-Busqueda) continued investigating 499 cases of children who disappeared during the civil war and resolved 17 other cases during the year.

On November 6, the Inter-American Commission on Human Rights (IACHR) heard the government's response to Pro-Busqueda's complaints, which alleged the forced disappearances of Santos Ernesto Salinas and Emelinda Lorena Hernandez in 1981 and of Manuel Antonio Bonilla and Ricardo Ayala Abarca in 1982. At year's end the cases remained pending further information the IACHR requested from the government.

At year's end there was no additional information available regarding the Office of the Attorney General's appeal to the Supreme Court regarding a lower court's January 2008 dismissal of charges against Juan Antonio Lopez, the western regional chief of the Office of the Public Defender, in relation to the kidnapping of a 12-year-old boy.

At year's end the government had not responded to the Inter-American Court of Human Rights' published findings in 2006 regarding the Jose Adrian Hernandez Rochac 1980 disappearance case.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, during the year the PDDH received 562 complaints alleging the use of excessive force or mistreatment of detainees, compared with 591 such complaints during 2008. The PDDH received 61 complaints specifically against PNC officers for excessive use of force. It also received 13 complaints of alleged torture and 10 complaints of alleged extrajudicial killings.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and dangerous. Overcrowding constituted a serious threat to prisoners' health and lives.

The prison authority reported that as of August, there were 22,101 prisoners held in 22 correctional facilities and two secure hospital wards, with a combined designed capacity for 8,227; of these inmates, 14,451 had been convicted, and 7,650 were in pretrial detention. There were 733 inmates in four prisons for juvenile offenders with a capacity of 763 inmates.

Prison authorities reported that 47 prisoners died during the year—five by homicide, one by suicide, and 41 from natural causes.

Prison authorities reported nine inmates were found guilty and 11 not guilty in connection with the 2007 gang-on-gang confrontation in Apanteos Prison, in which 21 inmates were killed.

There were no developments, and none were expected, in the investigation into the 2007 death of a 15-year-old inmate and injuries to two others at the Juvenile Offenders Prison in Ilobasco.

There was no new information available regarding the investigation of the alleged beating by police officers in 2007 of a minor prisoner in Tonacatepeque Juvenile Prison.

Gang activities in prisons and juvenile-holding facilities remained a serious problem. Of the total population in detention center facilities, 7,555 inmates were current or former gang members. Gang members routinely were separated from the regular prison population when possible. Gangs continued to exercise influence within the prisons and the judicial system.

Prisoners reportedly conducted criminal activities from their cells, at times with the complicity of prison guards. Smuggling of weapons, drugs, and contraband such as cell phones and cell phone chips was a major problem in the prisons. Through August prison authorities dismissed charges of wrongdoing against three prison guards and continued criminal investigations against an additional eight guards. On August 17, as a means to combat increased inmate extortion using cell phones, authorities resumed body cavity searches of prisoners to detect the devices.

There was no additional information regarding the July 28 charges against police officers Jose Juan Cruz Carias and Julio German Garcia for raping a woman held in custody in April.

Due to a lack of holding cells, pretrial detainees were often held in regular prisons together with violent criminals.

The government permitted prison monitoring visits by independent human rights observers, NGOs, and the media, and such visits occurred during the year.

*d. Arbitrary Arrest or Detention.*—Although the constitution prohibits arbitrary arrest and detention, there were complaints that the PNC arbitrarily arrested and detained persons. By year's end the PDDH reported receiving 185 complaints of arbitrary arrest or detention and 140 complaints of illegal detentions.

At year's end there were no new developments regarding the August 2008 case involving the reported police beating of Abraham Kattan.

At year's end there were no new developments regarding the May 2008 Hector Ventura murder case.

*Role of the Police and Security Apparatus.*—The PNC is responsible for maintaining public security and the Ministry of Defense for maintaining national security. The military provided support for some PNC patrols in rural areas and gave support to law enforcement agencies for specific activities, including antinarcotics and antigang efforts. The Ministry of Public Security headed the antigang task force. Approximately 5,000 military personnel were deployed to join the police on antigang and other task forces, including an estimated 3,000 additional soldiers deployed on November 6. Military personnel, however, do not have arrest authority.

Through November the PNC Office of the Inspector General had received 2,230 complaints of alleged police misconduct, referred 47 cases of these to special investigation units, and sanctioned 1,181 officers in response to complaints filed during the year and prior years. These sanctions included 156 officers dismissed for misconduct and 762 suspended without pay for minor infractions.

By year's end the Attorney General's Office had prosecuted 462 police officers as a result of investigations begun during the year and in 2008. Inadequate training, insufficient government funding, lack of a uniform code of evidence, and isolated in-

stances of corruption and outright criminality interfered with the PNC's effectiveness.

The PNC Inspector General reported that most PNC officers and police academy cadets received human rights awareness training during the year, including training by the Salvadoran Institute for the Development of Women (ISDEMU) concerning rape prevention, child abuse, and related offenses. By year's end the PNC Human Rights Unit had trained 21,072 police officers on general human rights topics. The International Law Enforcement Academy's training of 14 police officers, 17 prosecutors, eight judges, and 22 technical advisors, including workers in the immigration, customs, and airport authorities, included human rights awareness components.

*Arrest Procedures and Treatment While in Detention.*—The constitution requires a written warrant for arrest, except in cases where an individual is arrested in the act of committing a crime. In practice authorities apprehended persons openly and with warrants based on sufficient evidence and issued by a duly authorized official and brought them before appropriate judicial officials. The constitution grants detainees the right to a prompt judicial determination of the legality of their detention, and authorities generally respected this right in practice. In general detainees were promptly informed of charges against them.

The law permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. The bail system functioned adequately in most cases. Because it may take several years for a case to come to trial, some prisoners were incarcerated longer than the maximum legal sentences for their crimes. In such circumstances, detainees could request a Supreme Court review of their continued detention.

The courts generally enforced a ruling that interrogation without the presence of counsel is considered coercion and that any evidence obtained in such a manner is inadmissible. As a result, PNC authorities generally delayed questioning until a public defender or an attorney arrived. Family members were allowed prompt access to detainees. Detainees generally had prompt access to counsel of their choosing or to an attorney provided by the state.

The constitution permits the PNC 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. The law allows up to six months for investigation of serious crimes before requiring either a trial or dismissal of the case. In exceptionally complicated cases, the prosecutor may ask an appeals court to extend the deadline for three or six months, depending on the seriousness of the crime. Many cases were not completed within the legally prescribed time frame. As of August there were 7,229 inmates in pretrial detention or in detention awaiting final judgment.

*e. Denial of Fair Public Trial.*—Although the constitution provides for an independent judiciary, the judiciary suffered from inefficiency, corruption, and insufficient resources. Substantial corruption in the judicial system contributed to a high level of impunity, undermining the rule of law and the public's respect for the judiciary. Inadequate government funding of the PNC, combined with intimidation and killing of victims and witnesses, made it difficult to identify, arrest, and prosecute perpetrators of human rights abuses and other crimes, thus diminishing public confidence in the justice system.

The government operated police witness and victim protection programs that provided protection to 4,205 persons during the year. However, street gang intimidation and violence against witnesses contributed to a climate of impunity from criminal prosecution.

At year's end there were no new developments regarding pending criminal investigations of nine gang members against whom charges were dropped in 2008 after the killing of "Afrodita," a key government witness in their cases.

By year's end the PDDH had received complaints that the Attorney General's Office prevented access to justice in 57 cases, violated due process in 10 cases, and violated administrative process in 11 cases.

By year's end Fredis Osmin Escobar Alvarenga, one of three judges accused of rendering controversial decisions in the prosecutions of the Los Perrones narco-trafficking organization, was found guilty of money laundering. The Attorney General's Office reported that the cases of the other two judges, Jose Israel Bonilla Granados and Wilfredo Antonio Reyes Martinez, remained pending.

The Office of the Attorney General investigated five judges and three magistrates for alleged misconduct. At year's end these cases remained under investigation. The Supreme Court received 170 complaints from private citizens against judges for alleged irregularities and sanctioned three judges for improper conduct.

By year's end, the Office of the Attorney General had investigated 261 complaints against prosecutors for misconduct, compared with 203 complaints during 2008, resulting in the dismissal of two prosecutors and suspensions of 13 others for corruption and other serious infractions.

The court system has three levels. The first level includes justices of the peace, judges of instruction, and judges of sentence. The other two levels include appellate courts and the Supreme Court. The Supreme Court oversees the budget and administration of the court system and selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judiciary Council, an independent body that nominates, trains, and evaluates justices. There are separate court systems for family matters and juvenile offenders. The law requires that minors from 12 to 17 years of age be tried in juvenile courts. There are no military or security tribunals that are separate from the military court system. Military courts cannot try civilians.

*Trial Procedures.*—In general the law provides for trial by jury only in select cases. Although juries were used for specific charges, including environmental pollution and certain misdemeanors, judges decided most cases. By law juries hear only cases that the law does not assign to sentencing courts. After the jury's determination of innocence or guilt, a tribunal decides the sentence.

Defendants have the right to be present in court, question witnesses, and present witnesses and evidence. Although the constitution further provides for the presumption of innocence, protection from self-incrimination, the right to legal counsel, freedom from coercion, and government-provided legal counsel for the indigent, these legal rights and protections were not always respected in practice. Although a jury's verdict is final, a judge's verdict can be appealed. Trials are public. The law extends these rights to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Although the law provides for access to the courts, enabling litigants to bring civil lawsuits seeking damages for, as well as cessation of, human rights violations, the judiciary was not independent or impartial. Judges were subject to outside influence. Some persons sought to bring their cases before international bodies, such as the IACHR and the Inter-American Court, because they believed that these organizations would adjudicate their claims with greater fairness and impartiality. The law provides administrative remedies for alleged wrongs through the PDDH, the Solicitor's Office, the Government Ethics Tribunal, and the Center for Consumer Protection, as well as administrative offices within the various ministries. There were problems in enforcing domestic court orders.

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

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. Individuals could criticize the government publicly or privately without reprisal, and the government generally did not interfere with such criticism.

The independent media were active and expressed a variety of views without restriction. The Salvadoran Journalists' Association noted that journalists reporting on narcotics trafficking were subject to threats and intimidation, which led to media self-censorship in reporting about the drug trade.

Although international NGOs generally commented positively on the status of press freedom in the country, newspaper editors and radio directors occasionally discouraged journalists from reporting on topics that the owners or publishers might not view favorably.

The law permits the executive branch to use the emergency broadcasting service to take over temporarily all broadcast and cable networks to televise political programming.

In July unknown actors made death threats against radio journalists Ludwing Iraheta, Jose Beltran, and Vladimir Abarca, allegedly related to their reporting on the killing of community activist Marcelo Rivera. By year's end authorities had provided the journalists protection under the Program for the Protection of Victims and Witnesses but had not apprehended any suspects.

On September 2, unknown assailants shot and killed French-Spanish documentary filmmaker Christian Poveda in Soyapango. By year's end authorities had ar-



rested 15 alleged gang members, one PNC officer, and 10 imprisoned gang members in relation to the killing. At year's end authorities continued to investigate the case.

In February the justice of the peace in Huizucar, La Libertad, closed the case against municipal advisor Jose Antonio Arias Hernandez, who was accused of attacking two journalists in September 2008 while they filmed a documentary about potable water. Arias Hernandez agreed to a settlement by which he would obey a restraining order and repair video equipment damaged during the dispute.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet service was available in the major cities. According to International Telecommunication Union statistics for 2008, approximately 13 percent of the country's inhabitants used the Internet.

*Academic and Cultural Freedom.*—There were no government restrictions on academic freedom or cultural events.

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

*Freedom of Association.*—Although the constitution provides for freedom of association, there were concerns regarding registration delays of certain types of civil society groups. NGOs asserted that the Ministry of Governance delayed approval of, or denied legal status for, NGOs with particular human rights or political agendas.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the government generally respected this right in practice. The Ministry of Governance has responsibility for registering, regulating, and overseeing the finances of non-profit organizations, non-Catholic churches, and other religious groups. The constitution exempts the Roman Catholic Church from this registration requirement. Although non-Catholic religious groups are not required to register, they must do so if they wish to incorporate formally. Noncitizens in the country primarily for the purpose of proselytizing must obtain a special residence visa for religious activities. In practice the government did not enforce this requirement. The penal code imposes criminal sentences on those who publicly offend or insult the religious beliefs of others or damage or destroy religious objects.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community totaled approximately 150 persons.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution prohibits forced exile, and the government observed this prohibition in practice.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the law provides for the granting refugee status or asylum in accordance with those international instruments. The government has established a system for providing protection to refugees. During the year the government received 102 refugee petitions but did not grant refugee protection to any of the petitioners. Approximately 33 petitions remained pending at year's end.

The law provides protection against the expulsion or return of persons to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government received no requests for temporary protection for individuals who may not qualify as refugees under the 1951 UN Convention and its 1967 protocol. The law does not provide this type of temporary protection.

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

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

*Elections and Political Participation.*—In March FMLN candidate Carlos Mauricio Funes Cartagena won the presidential election, which the Organization of American States and other international observers reported was generally free and fair with few irregularities.

In the January legislative elections, described as free and fair by international observers, no party won an outright majority. Political parties could operate without restrictions or outside interference.

There were 16 women in the 84-member Legislative Assembly, five women on the 15-member Supreme Court, and two women in the 13-member cabinet. No persons in the Supreme Court, legislature, or other government entities identified themselves as members of an ethnic minority or indigenous community, and there were no political party positions or parliamentary seats designated for ethnic minorities.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials, particularly in the judicial system, reportedly engaged in corrupt practices with impunity.

NGOs, such as the Foundation for Studies in Legal Application and the Salvadoran Foundation for Economic and Social Development (FUSADES), alleged that the Supreme Court did not adequately address judicial delays, inefficiency, and unqualified and corrupt judges. FUSADES reported that the public had minimal confidence in the judicial system due to a lack of access to justice and accountability, a judicial backlog, and corruption. FUSADES launched a website that made judicial proceedings and records available to the public.

Public officials were not subject to financial disclosure laws. The Court of Accounts, the Anticorruption Unit of the Office of the Attorney General, and the Government Ethics Tribunal (TEG) are the three agencies that combat corruption. During the year the Office of the Attorney General investigated three judges for corruption and continued investigating 120 cases opened in 2008 involving court officials. Of these cases, three were dismissed, two were sentenced, and 95 remained under investigation at year's end. There was a public perception that government corruption was a serious problem.

The Legislative Assembly has not audited the Court of Accounts, the government agency charged with auditing the National Treasury and the Federal Budget, since 1995, despite a law mandating an annual audit. In July the Court of Accounts rejected a budget and procedural audit based on legal technicalities.

The Legislative Assembly restricted public access to its monthly committee reports and required that a Board of Directors member approve such requests. By year's end the Government Ethics Tribunal (TEG) opened 140 investigations into government ethics complaints, resulting in public reprimands for 11 government officials. To combat public sector corruption, the TEG operated ethics commissions within 77 government entities.

Although the law provides for public access to government information, in practice inconsistent legislation impeded such access. There is no freedom of information law. Citizens could access some information via the Internet regarding the national budget and certain cases before the Supreme Court. The government usually did not give reasons for denying public access to information. There are no mechanisms to appeal denials.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to these groups, officials at times were reluctant to discuss worker rights issues with NGOs and the PDDH. Domestic and international NGOs were required to register with the government, and some reported difficulties (see section 6).

The government cooperated with the UN Development Program, UN Children's Fund, UN Population Fund, International Labor Organization, Organization of American States, Central American Integration System, and other international governmental organizations and permitted visits by UN representatives.

The principal human rights investigative and monitoring body is the autonomous PDDH, whose head is elected by the Legislative Assembly to a three-year term. The PDDH regularly issued reports and press releases on prominent human rights cases and monitored the year's presidential and legislative elections.

The PDDH maintained a constructive dialogue with the president's office. The government publicly acknowledged receipt of the PDDH's reports, although in some

cases it did not take action on PDDH recommendations, which are not legally binding. The public generally trusted the PDDH.

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

Although the constitution and the legal code establish that all persons are equal before the law and prohibit discrimination regardless of race, gender, disability, language, or social status, in practice the government did not effectively enforce these prohibitions. There was discrimination against women, persons with disabilities, gay and lesbian persons, and indigenous people.

*Women.*—The law criminalizes rape. While not specifically addressed in the law, spousal rape may be considered a crime if the actions meet the criminal code definition of rape. The Office of the Attorney General may prosecute rape cases with or without a complaint from the victim, and the law does not permit the victim's pardon to nullify the criminal charge. The penalty for rape is six to 10 years' imprisonment, but the law provides for a maximum sentence of 20 years for rape of certain classes of victims, including children and persons with disabilities. Incidents of rape continued to be underreported for a number of reasons, including societal and cultural pressures against victims, fears of reprisal, ineffective and unsupportive responses by the authorities toward victims, fear of publicity, and a perception among victims that cases were unlikely to be prosecuted. Laws against rape were not effectively enforced.

Rape and other sexual crimes against women were widespread. The PNC received reports of 2,211 cases of rape of adults, which, according to the Attorney General's Office, resulted in 127 trials and 63 convictions.

By year's end ISDEMU had provided health and psychological assistance to 1,013 women and girls who suffered sexual abuse and 2,512 girls who suffered physical abuse.

The law prohibits domestic violence and provides for sentences ranging from one to three years in prison. The law also permits obtaining restraining orders against offenders. Domestic violence was considered socially acceptable by a large portion of the population, and, as with rape, its incidence was underreported.

Violence against women, including domestic violence, was a widespread and serious problem. Laws against domestic violence were not well enforced, and cases were not effectively prosecuted. Through August ISDEMU received 6,514 reports of domestic violence, compared with 6,051 complaints in 2008. Through July the Office of the Attorney General investigated 740 cases of domestic violence, which resulted in eight convictions and 80 cases resolved through mediation.

ISDEMU coordinated with the judicial and executive branches and civil society groups to conduct public awareness campaigns against domestic violence and sexual abuse. The PDDH, Attorney General's Office, Supreme Court, Public Defender's Office, and PNC collaborated with NGOs and other organizations to combat violence against women through education, increased enforcement of the law, and NGO support programs for victims. The National Secretariat for the Family, through ISDEMU, defined policies, programs, and projects on domestic violence and continued to maintain a telephone hotline and a shelter for victims of domestic abuse and child victims of commercial sexual exploitation. The government's efforts to combat domestic violence were minimally effective.

Although prostitution is legal, the law prohibits inducing, facilitating, promoting, giving incentives to a person to work as a prostitute, or paying anyone under the age of 18 for sexual services. Prostitution remained common, and there were credible reports that some women and girls were forced into prostitution.

The law prohibits discrimination based on gender. The law defines sexual harassment as any unwanted physical sexual contact and stipulates penalties of three to five years in prison (or four to eight years in cases where the victim is under the age of 15 at the time of the offense). The law, however, does not clearly recognize nonphysical sexual harassment as a crime. Fines are added to the prison term in cases where the perpetrator is in a position of authority or trust over the victim.

The government did not enforce sexual harassment laws effectively. Since underreporting by victims of sexual harassment appeared to be widespread, it was difficult to estimate the extent of the problem.

Couples and individuals had the right to decide the number, spacing, and timing of children, and information about and access to contraception was widely available. Access to contraception was free from discrimination, violence, and coercion. Prenatal care and skilled attendance at delivery were also widely available. However, the Population Reference Bureau reported that 8 percent of births were not attended by trained medical professionals. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

The constitution grants women and men the same legal rights under family and property law, but women did not receive equal treatment in practice. The law establishes sentences of one to three years in prison for public officials who deny a person's civil rights based on gender, and six months to two years for employers who discriminate against women in the workplace. However, employees generally did not report such violations due to fear of employer reprisals.

Pregnancy testing as a condition for employment is illegal. There were allegations that some businesses, including apparel assembly factories required female job applicants to present pregnancy test results and fired pregnant workers.

Women suffered from cultural, economic, and societal discrimination. Men often received priority in job placement and promotions, and women were not accorded equal respect or stature in traditional male-dominated sectors, such as agriculture and business. Training for women generally was confined to low-wage occupational areas where women already held most positions, in fields such as teaching, nursing, apparel assembly, home industries, and small businesses.

Gender-based wage disparity remained a problem. Data from the 2007 Household Survey, the latest available, indicated that, on average, women's monthly wages were \$266 (the U.S. dollar is the national currency), and men's were \$309. In the apparel assembly sector, where women made up the majority of the labor force, men held most positions in management and in departments where employees received higher wages.

*Children.*—Citizenship is derived by birth within the country and from one's parents. The law requires parents to register a child within 15 days of birth or else pay a \$2.86 fine. There were no firm statistics, but there was information that many births were not registered. Unregistered children had access to public health care but not to public education.

Child abuse was a serious and widespread problem. At year's end the Salvadoran Institute for Children and Adolescents (ISNA), an autonomous government entity, reported sheltering 894 abused children, including 184 cases of negligence, 602 cases of mistreatment, 39 cases of children living on the street, 54 cases of sexual abuse, 184 cases of abandonment, 13 cases of children employed as beggars, and 2 cases of commercial sexual exploitation. ISNA defined policies, programs, and projects on child abuse, maintained a shelter for child victims of abuse and commercial sexual exploitation, and in June initiated a violence awareness campaign to combat child abuse.

There was no new information available regarding the investigation of the alleged beating by police officers in 2007 of a minor prisoner in Tonacatepeque juvenile prison.

The law classifies statutory rape as sexual relations with anyone under 18 years of age and provides for penalties between four and 20 years' imprisonment for those convicted of the crime. The law prohibits participating in, facilitating, or purchasing materials containing child pornography and provides for prison sentences of up to 16 years' imprisonment. The PNC and Attorney General's Office cooperated with INTERPOL to make at least two arrests against persons for child pornography.

On September 24, ISNA nurses Ana Gladis Argeta de Ruano and Maria Silvia Amaya de Murcia were each sentenced to one year of community service and a fine of \$1,000 for negligence in the August 2008 death of infant Erick Amaya.

*Trafficking in Persons.*—Although the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country. Trafficking remained a significant problem, but due to the country's porous borders, there were no firm estimates on its full extent.

The country was a source, transit, and destination country for women and children trafficked primarily for the purpose of sexual exploitation. There were reports of internal trafficking and evidence that persons were trafficked for agricultural work, fraudulent adoptions, and organ harvesting. There was also evidence that the country was a transit point for girls trafficked to Mexico, the United States, neighboring Central American countries, Spain, and Italy.

Most international trafficking victims came from Nicaragua, Guatemala, Honduras, and the Dominican Republic. Some children were trafficked internally to cities, particularly to Acajutla and San Miguel, and to border regions. Sex trafficking of minors occurred within the country's borders, as did sex trafficking induced by force, fraud, or coercion. According to the International Labor Organization's (ILO) International Program to Eliminate the Worst Forms of Child Labor, girls were commercially sexually exploited in San Salvador and San Miguel.

Groups at special risk for trafficking were girls and young women from 12 to 18 years of age, persons from rural and poor areas, single mothers in poor areas, ado-

lescents without formal schooling, adolescent mothers, unemployed young men, and young foreign girls.

According to immigration authorities, the principal traffickers in the country were the owners of topless bars, brothels, and employment agencies that made fraudulent offers of employment for work in beauty salons, as models, in gyms, as maids, or in factories. There was evidence that members of organized crime were involved in trafficking.

The PNC reported that the most common methods of obtaining victims were kidnapping, lucrative job offers, and inducement into prostitution by family, friends, and smugglers. While some traffickers transported victims, some foreign victims entered the country on their own from Nicaragua, Honduras, and other neighboring countries in response to fraudulent job offers to work as domestic servants but were forced into prostitution on arrival.

Trafficking in persons and forced prostitution are felonies, carrying criminal penalties between four and eight years' imprisonment. By law perpetrators are liable for civil damages. However, in practice civil penalties for trafficking were rarely imposed. If the trafficking victim is under 18, has physical or mental disabilities, dies as a consequence of negligence or imprudence, or if the perpetrator is a law enforcement agent or public officer, the maximum sentence increases by one-third. The government's enforcement of trafficking laws was poor and impeded by corruption and administrative disorganization.

The PNC reported 281 cases of trafficking during the year. The Office of the Attorney General investigated 67 new cases of trafficking and obtained 11 convictions.

During September and October public hearings, a court sentenced four defendants in the Cerron Grande case to eight years in prison each for trafficking in persons. At year's end the Attorney General's Office reported that pursuant to an investigation conducted with INTERPOL in Guatemala, authorities sentenced four defendants in a fraudulent adoption case to sentences between three and six years each in prison.

There were credible reports that some government officials in the department of Chalatenango were involved in trafficking. The government sponsored regular antitrafficking awareness training for government officials aimed at eliminating official involvement in trafficking in persons.

The government detained illegal migrants, including those who might have been trafficking victims. Persons under age 18 were repatriated through ISNA cooperation with its counterpart organizations. The PNC encouraged trafficking victims to press charges against traffickers. Victims could apply for temporary residence or refugee status if they were likely to face persecution in their country of origin. Adult illegal immigrant victims of trafficking who did not request assistance or express fear for their lives were deported under immigration law.

The government provided legal, medical, and psychological services upon request. Victims of trafficking were not treated as criminals unless they were undocumented workers of legal age. Although the government provided assistance to its repatriated citizens who were victims of trafficking, victims faced societal discrimination due to having engaged in prostitution or other commercial sexual activities.

The Salvadoran Network Against Trafficking, made up of the ILO, Catholic Relief Services, Save the Children, the Anglican Church of El Salvador, CARECEN International, Caritas, and the Salvadoran National Women's Commission, provided legal counseling and human rights awareness to victims of trafficking. The government's shelter for victims of trafficking provided protection to 18 persons during the year.

The ISDEMU human rights program assisted approximately 11,443 at-risk persons. The National Committee to Combat Trafficking in Persons, a task force made up of the government agencies responsible for addressing trafficking in persons, collected data on trafficking, and its member agencies conducted extensive anti-trafficking training, information programs, and assistance to victims. The government stated that by year's end, it had trained 4,532 public officials involved with combating trafficking.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services. According to the NGO Survivors Network, the government did not allocate sufficient resources to enforce these prohibitions effectively, particularly in education, employment, and transportation, and did not effectively enforce legal requirements for access to buildings for persons with disabilities.

Several public and private organizations promoted the rights of persons with disabilities. The National Council for Disabled Persons (CONAIPD) is the government agency responsible for protecting those rights.

CONAIPD conducted awareness campaigns, provided sensitivity training to 1,991 persons from the public and private sectors, and promoted the hiring of persons with disabilities. The government Fund for the Protection of Persons with Disabilities assisted financially people who were wounded or had a disability as a result of the civil war. The Rehabilitation Foundation, in cooperation with the Salvadoran Institute for the Rehabilitation of the Disabled (ISRI), continued to operate a treatment center for persons with disabilities. However, CONAIPD reported that the government provided minimal funding for ISRI.

*Indigenous People.*—While the constitution states that native languages are part of the national heritage and should be preserved and respected, the law does not recognize indigenous communities and accords no special rights to indigenous people. According to 2007 census, the most recent available, indigenous persons formed approximately 0.21 percent of the national population in three principal groups: Nahua-Pipiles in western and central areas of the country, and Lencas and Cacaoperas in the eastern region. Indigenous rights groups and the PDDH complained that the government's methodology used to determine indigenous self-identification underestimated the actual size of the indigenous population. Although few individuals publicly identified themselves as indigenous, there were a few small indigenous communities whose members continued to maintain traditional customs without repression or interference by the government or nonindigenous groups. Government estimates in 2004, the most recent available, indicated that approximately 99 percent of indigenous persons lived below the poverty level.

The government did not effectively protect the civil and political rights of indigenous people. There are no domestic laws giving indigenous people rights to share in revenue from exploitation of natural resources on indigenous lands. The government did not demarcate any lands as belonging to indigenous communities. Access to land was a problem for indigenous persons. Because few possessed title to land, opportunities for bank loans and other forms of credit were extremely limited.

There was no information available regarding the status of a complaint that 11 self-identified indigenous persons filed in 2007 with the Supreme Court Constitutional Chamber, regarding discrimination arising out of the government housing and population censuses.

There were no government programs dedicated to combating discrimination against, or promoting the rights of, indigenous persons. The PDDH reported that indigenous persons faced employment and workplace discrimination.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Although the law prohibits discrimination on the basis of sexual orientation, in practice discrimination was widespread. By year's end the government had not approved the legal registration application filed in August by the gay rights NGO Entre Amigos. However, Arco Iris and Gays Sin Fronteras, NGOs that also worked with the sexual minority population, enjoyed legal status.

There was widespread official and societal discrimination based on sexual orientation in employment and access to health care. Entre Amigos reported that public officials, including the police, engaged in violence and discrimination against sexual minorities. Persons from the lesbian, gay, bisexual, and transgender (LGBT) community reported that the PNC and Attorney General's Office ridiculed them when reporting cases of violence against LGBT persons. The government's response to these abuses was primarily through PDDH reports that publicized specific cases of violence and discrimination against sexual minorities. In general violence and discrimination against sexual minorities went unpunished.

LGBT rights supporters held two gay pride marches, for which the municipality of San Salvador provided authorization. The government provided sufficient police security for marchers.

By year's end Entre Amigos reported the killings of 23 persons from the LGBT community, compared with 11 during 2008. Entre Amigos alleged that many of the victims' bodies showed signs of torture.

Entre Amigos reported that the PNC did not investigate a July attempted break-in to the group's offices by unknown actors. At year's end there was no information regarding any investigation of the incident.

*Other Societal Violence or Discrimination.*—Although the law prohibits discrimination on the basis of HIV/AIDS status, in practice discrimination was widespread. Lack of public information remained a problem in confronting discrimination against persons with HIV/AIDS or in assisting persons suffering from HIV/AIDS. In August the Ministry of Public Health launched an awareness campaign aimed at reducing stigmatization of HIV positive persons.

Reports indicated that rape and other sexual abuse of males was substantially underreported to authorities. During the year ISDEMU provided health and psychological assistance to men and boys who were victims of physical or sexual abuse.

*Section 7. Worker Rights*

*a. The Right of Association.*—The constitution provides for the right of workers, except military personnel, national police, judges, high-level public officers, and workers who are in “positions of trust,” to form unions without previous authorization from their superiors. During the year the government amended the constitution to grant legal status to public worker unions.

Among the requirements to obtain legal standing, unions must have a minimum of 35 members in the workplace, hold a convention, and elect officers. The constitution permits the participation of noncitizens in unions, but requires that union leaders be citizens.

The constitution recognizes the right to strike. Although the law contains complex and cumbersome registration procedures for conducting a legal strike, workers freely exercised this right in practice.

A legal strike must be supported by 51 percent of workers in an enterprise, including workers not represented by the union. Unions may strike only after the expiration of a collective bargaining agreement or to protect professional rights. Unions must seek to resolve differences through direct negotiation, mediation, and arbitration before striking. A strike must aim to obtain or modify a collective bargaining agreement and to defend the professional interests of workers. Union members must approve a decision to strike through secret ballot, and the union must name a strike committee to serve as a negotiator and send the list of names to the Ministry of Labor, which notifies the employer. The union must wait four days from the time the Ministry of Labor (MOL) notifies the employer before striking. The law prohibits workers from appealing a government decision declaring a strike illegal. In practice, workers engaged in strikes regardless of whether the legal requirements were met. Although the MOL did not declare any strikes to be legal during the year, it did not report any instances where the right to strike was denied.

*b. The Right to Organize and Bargain Collectively.*—The law permits collective bargaining by employees in the private and public sectors, and the government effectively enforced the law. Collective bargaining was practiced to some extent.

Although the law prohibits antiunion discrimination, the MOL did not adequately enforce these provisions and there was discrimination, including unfair dismissal, against labor union organizers.

There are no special laws or exemptions from regular labor laws inside the free trade zones (FTZs). There were credible reports that some factories in the FTZs dismissed union members.

As of August the Office of the Attorney General reported opening 529 investigations against employers for illegally retaining social security and pension payments, eight investigations for violations of labor safety conditions, one investigation for labor discrimination, and 10 investigations for violations against freedom of association and the right to strike. The government did not allocate sufficient resources for adequate inspection and oversight to ensure respect for association and collective bargaining rights in the FTZs. There continued to be allegations of corruption among labor inspectors in the apparel assembly industry.

During the year the MOL reportedly conducted 884 inspections and 413 follow-up inspections of apparel assembly facilities, pursuant to which it identified labor law violations involving failure to pay back wages, firings of union leaders and pregnant workers, and mandatory HIV tests as a condition of employment. It reportedly imposed fines for violations in six cases.

The law specifies 18 reasons for which an employer can legally suspend workers, and employers can invoke 11 of these reasons without prior administrative or judicial authorization. Workers reported instances where employers used illegal means to undermine union organizing, including dismissing labor activists and blacklisting workers who were union members.

The law does not require employers to reinstate illegally dismissed workers. Employers have dismissed workers who tried to form unions, and in most cases the government did not prevent their dismissal or seek their reinstatement.

By year's end the Calvo Tuna Company had provided financial compensation to two union leaders whom it had dismissed for their unionizing activities, in violation of a 2007 MOL order granting the union legal status. The company did not reinstate either of these workers.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor except in the case of natural catastrophe and other instances specified by law. Although the government generally enforced this prohibition, there

were reports of trafficking of persons for forced commercial sexual exploitation and apparel assembly labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 14, but child labor remained a serious and widespread problem.

Children age 12 and older are allowed to engage in light work, so long as it does not harm their health or interfere with their education. Children under 16 years of age are prohibited from working more than seven hours per day and 34 hours per week; those under age 18 are prohibited from working at night or in occupations considered hazardous. The MOL was responsible for enforcing child labor laws. In practice, labor inspectors focused almost exclusively on the formal sector.

The MOL reported receiving few complaints of violations of child labor laws, primarily because many persons perceived child labor to be an essential component of family income rather than a human rights problem. The government did not devote adequate resources to effectively enforce child labor laws in agricultural activities, especially coffee and sugarcane production, or in the large informal sector.

There were credible reports of trafficking in children and child prostitution. According to the 2008 School Registration Census, the most recent available, there were approximately 110,000 child workers, with the largest numbers engaged in coffee, sugarcane, and other agricultural activities; domestic work; street vending; and fishing. Child labor in its worst forms was a serious problem in coffee and sugarcane cultivation, fishing, mollusk extraction, and fireworks production. There were reports of children engaging in garbage scavenging and apparel assembly. Orphans and children from poor families frequently worked for survival as street vendors and general laborers in small businesses. Children also worked as domestic servants.

The MOL reported that it had 159 labor inspectors distributed nationwide, including four specialists in child labor issues. The MOL reported receiving six complaints of child labor law violations, but there was no information on specific investigations or prosecutions.

According to the Ministry of Labor, the Ministry of Education operated 134 after-school programs to promote child labor awareness and encourage school attendance. The MOL reported that when inspectors encountered incidents of child labor, the government removed the victims and placed them in educational programs.

Through April the MOL participated in a regional ILO International Program on the Elimination of Child Labor project to combat child sexual exploitation. Building on that project, the government developed with the ILO a strategic plan to eliminate the worst forms of child labor by 2015 and child labor in its entirety by 2020.

*e. Acceptable Conditions of Work.*—The minimum wage is set by executive decree, based on recommendations from a tripartite committee comprising representatives from labor, government, and business. There is no national minimum wage; the minimum wage is determined by sector. The minimum daily wage was \$6.92 for retail and service employees, \$6.77 for industrial laborers, and \$5.79 for apparel assembly workers. The agricultural minimum wage was \$3.24. The national minimum wage did not provide a decent standard of living for a worker and family. Although during the year basic subsistence costs for food were \$169.34 per month, the highest monthly minimum wage nationally was \$207.60.

By year's end the Social Security Institute confirmed that Joaquin Salvador Montalvo Machado had complied with the Third Sentencing Court's fine of \$144,724 imposed in 2006 for illegally retaining social security and pension payments of workers at the Hermosa Manufacturing apparel assembly plant. However, Montalvo had not paid legally required severance and other payments to workers.

The ministry reported conducting 2,012 inspections and issuing six fines for non-payment of minimum wages. The average fine was \$202. During the year the MOL conducted a pilot plan to enforce the minimum wage. The government reportedly effectively enforced the minimum wage law in the formal sector but not in the informal sector.

The law sets a maximum normal workweek of 44 hours, limited to no more than six days, and requires bonus pay for overtime. The law mandates that full-time employees be paid for an eight-hour day of rest in addition to the 44-hour normal workweek. The law prohibits compulsory overtime. These standards were not enforced effectively.

The MOL reported that it had received 658 complaints of unpaid overtime, involving 983 workers.

The government's gender and labor discrimination unit reported that assembly plants generally respected the laws on overtime. However, most of these plants required workers to work extra days in order to meet production goals, with a promise



of incentive pay in addition to overtime. There were no reports of workers not receiving incentive pay.

The MOL is responsible for setting workplace safety standards, and the law on occupational health and safety standards establishes a tripartite committee to review the standards. The law requires all employers to take steps to ensure that employees are not placed at risk to their health and safety in the workplace. This includes prohibitions on the employment of persons under age 18 in occupations considered hazardous or morally dangerous.

Health and safety regulations are outdated, and enforcement was inadequate. The law does not clearly recognize the right of workers to remove themselves from hazardous situations without jeopardy to their continued employment. The MOL reported conducting 4,409 workplace inspections for working conditions.

## GRENADA

Grenada is a parliamentary democracy with a bicameral legislature. Grenada and two smaller islands, Carriacou and Petite Martinique, have a population of approximately 105,000. In generally free and fair elections in July 2008, the National Democratic Congress (NDC) won 11 of 15 seats in Parliament, and Tillman Thomas was sworn in as prime minister. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, problems included allegations of corruption, violence against women, and instances of child abuse.

### RESPECT FOR HUMAN RIGHTS

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

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

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no confirmed reports that government officials employed them. However, there were occasional allegations that police beat detainees. Flogging, a legal form of punishment, was occasionally used as punishment for sex crimes.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, with the exception of overcrowding, and the government permitted visits by independent human rights observers. Overcrowding was a significant problem; in the sole penitentiary there were 378 prisoners, of whom three were women, held in space designed for 98 persons.

Women were held in a separate section of the prison from men. There was no separate facility for juveniles, and they were held with the general prison population.

The government permits monitoring of prison conditions by independent human rights groups, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The country does not have a military. The 948-person Royal Grenadian Police—there are also 253 rural constables—has a hierarchical structure and generally was effective in responding to complaints. The police commissioner continued a community policing program.

The police report to the minister for national security, who is also the prime minister. The police commissioner can discipline officers (up to the rank of sergeant) in cases of brutality with penalties that include dismissal. In March the commissioner immediately dismissed an officer whose identification card (along with a quantity of illegal drugs) was found during a raid. Only the Public Service Commission can discipline officers with the rank of inspector or above.

*Arrest Procedures and Treatment While in Detention.*—The constitution and law permit police to detain persons on suspicion without a warrant, but they must bring formal charges within 48 hours, and this requirement generally was respected. In practice detainees were provided access to a lawyer and family members within 24 hours. 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 bail system, 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. The court appoints a lawyer for the indigent in cases of murder and other capital crimes.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice.

The judiciary is a part of the Eastern Caribbean legal system, which consists of three resident judges who hear cases in the High Court twice a year and a Court of Appeals staffed by a chief justice who travels between the Eastern Caribbean islands to hear appeals of local cases. Final appeal may be made to the Privy Council in the United Kingdom.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right.

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. The law allows for a defense lawyer to be present during interrogation and to advise the accused how to respond or not to respond to questions. The accused has the right to confront his accuser and has the right of appeal. There are jury trials in the High Court only; trials are open to the public unless the charges are sexual in nature or a minor is involved.

The court appoints attorneys for indigents only in cases of murder or other capital crimes. In other criminal cases that reach the appellate stage, the court appoints a lawyer to represent the accused if the defendant was not represented previously or reappoints earlier counsel if the appellant can no longer afford that lawyer's services. With the exception of foreign-born drug suspects or persons charged with murder, the courts granted most defendants bail while awaiting trial.

On September 5, the government released the remaining seven of the original "Grenada 17," those imprisoned for the 1983 murders of then prime minister Maurice Bishop and 10 other citizens. The release was based on a 2007 ruling in a resentencing hearing ordered by the Privy Council.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters. The civil court system encompasses a number of seats around the country at which magistrates preside over cases.

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

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

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights in practice.

Led by a prime minister who spent more than two years in prison because of his belief in press freedom, the government did not use libel laws to sue journalists and media owners. However, journalists were subject to forms of criticism that could result in self-censorship.

Continuing a practice used by the opposition while in power, in December an opposition politician threatened to file suit against the media when confronted with unfavorable media reports.

In January the health minister apologized for telling a television audience that "irresponsible" journalists who criticized the government belonged in jail, explaining that his remarks were intended in jest. On May 29, authorities questioned a radio broadcaster (and opposition supporter) who urged citizens to avoid a government-sponsored event. Journalists noted that the Media Workers Association, which frequently criticized the previous administration for its treatment of the media, remained silent on the broadcaster's 45-minute detention.

Authorities granted broadcast licenses to two radio stations that had been denied licenses by the previous government. Grenada Today, a newspaper that closed and was liquidated for failure to pay a large sum owed in a libel suit brought by the opposition leader in 2007, reopened the next day as The New Today.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that there were 23 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the government respected these rights in practice.

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

There is no state religion. To qualify for customs tax exemptions, religious organizations must register with the government.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. There was no organized Jewish community.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

Although no known cases occurred, the government was prepared to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The law does not address forced exile, but the government did not use it.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. The government has not established a system for providing protection to refugees or asylum seekers. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The most recent general elections were held in July 2008, when the National Democratic Congress won 11 of the 15 seats in the House of Representatives, defeating the New National Party, which had governed for 13 years. The Organization of American States led a 25-member election observer mission, which deemed the elections free and fair.

There were two women in the House of Representatives and four among the 13 appointed senators. The president of the Senate is a woman, and there were three female ministers of government. In the civil service, women held 17 of the 19 most senior positions.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. The World Bank's governance indicators reflected that corruption was a problem.

In 2007 Parliament passed the country's first anticorruption laws and a bill establishing an Integrity Commission. In October the government appointed seven persons to the Integrity Commission, and it began to set up its office.

Although the new anticorruption laws require all public servants to report their income and assets, the appropriate regulations had not been promulgated by year's end.

In July the prime minister asked the attorney general to resign after it was learned that he had used his official letterhead to beg for leniency for his stepson, who was held in foreign custody on drug charges.

There are no laws mandating transparent reporting of political donations or limiting the amount of political donations from outside the country.

Although there is no law providing for public access to government information, citizens may request access to any information that is not deemed classified. There is no national archive system, but the public library attempted to archive those official documents to which it had access.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

On October 1, the government swore in Argar Alexander as the country's first ombudsman. A career public servant, he previously served as cabinet secretary. The ombudsman has authority to investigate complaints from persons who object to government actions they deem to be unfair, an abuse of power, contrary to law, discriminatory, or negligent.

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

The constitution and law prohibit discrimination based on race, place of origin, political opinion, color, creed, or gender, and the government generally upheld these prohibitions.

*Women.*—The law criminalizes rape, including spousal rape, and stipulates a sentence of flogging or up to 15 years' imprisonment for a conviction of any nonconsensual form of sex. Authorities referred 62 charges involving rape or related charges for prosecution through November. Of these, 15 counts against nine individuals resulted in convictions.

Women's rights monitors noted that violence against women remained a serious problem. The law prohibits domestic violence and provides for penalties at the discretion of the presiding judge based on the severity of the offense. Police and judicial authorities usually acted promptly in cases of domestic violence. Sentences for assault against a spouse vary according to the severity of the incident. A shelter accommodating approximately 18 battered and abused women and their children operated in the northern part of the country, staffed by medical and psychological counseling personnel. The government established and publicized an anonymous hotline for victims to get help and for persons to report cases of abuse. The hotline received an average of two calls per week, while a government office line received approximately 15 calls per week that met hotline criteria.

Prostitution is illegal but existed.

The law prohibits sexual harassment, but there are no criminal penalties for it. It is the responsibility of the complainant to bring a civil suit against an alleged harasser.

Couples and individuals had access to contraception as well as obstetric and postnatal care. Lifestyle choices and a lack of prenatal education contributed to a high percentage of premature births, which resulted in an infant mortality rate of 15 deaths per 1,000 live births in 2008. Essential obstetric and postpartum care was widely available, as well as skilled attendants at births. Women and men had equal access to treatment for HIV/AIDS.

Women generally enjoyed the same rights as men, and there was no evidence of official discrimination in health care, employment, or education; however, women frequently earned less than men performing the same work. Television and radio public service announcements continued to condemn spousal abuse and raise women's awareness of their rights.

*Children.*—Citizenship is derived from birth in the country or by birth to a Grenadian parent. There is universal birth registration.

The government continued a free school book program for all primary and secondary school students. A number of local NGOs and the government provided scholarships to needy families to pay for uniforms and transport. The Social Welfare Division within the Ministry of Social Development provided probationary and rehabilitative services to youth, day-care services and social work programs to families, assistance to families wishing to adopt or provide foster care to children, and financial assistance to the six children's homes run by private organizations.

Government social service agencies reported 14 physical abuse, 15 sexual abuse, and two incest cases during the year, substantially fewer than in 2008. Abused children were placed either in a government-run home or in private foster homes. The law stipulates penalties ranging from five to 15 years' imprisonment for those convicted of child abuse and disallows the victim's alleged "consent" as a defense in cases of incest. The government used television and radio spots to raise awareness within the population about child abuse and incest.

There is a statutory rape law that applies to children 16 years and under. Penalties are 15 years' imprisonment if the victim was less than 14 and five years' imprisonment if the victim was 14 to 16 years of age. No specific laws address child

pornography, but the law does prohibit the importation, sale, and public display of pornography.

*Trafficking in Persons.*—The constitution and law do not prohibit trafficking in persons for all purposes; however, there were no reports that persons were trafficked to, from, through, or within the country. In theory trafficking cases could be prosecuted under other laws, such as those prohibiting forced prostitution, pimping, sexual abuse, and abuse of a minor.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The constitution and law do not protect job seekers with disabilities from discrimination in employment. The law does not mandate access to public buildings or services. The government provided for special education in its school system; however, most parents chose to send their children to three special education schools operating in the country. Persons with disabilities had full access to the health care system and other public services. The government and NGOs continued to provide training and work opportunities for such persons. The Ministry of Social Services includes an office responsible for looking after persons with disabilities; the Council for the Disabled reviews disability-related issues.

*National/Racial/Ethnic Minorities.*—The ancestors of many citizens came to the country from India as indentured servants, many of whom found themselves in slave-like conditions. Descendants of this population make up approximately 8 percent of the population, but their history is not taught in the schools. Some complained about discrimination based on their origins, although most have intermarried with persons of European or African descent.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law criminalizes consensual homosexual relations, providing penalties of up to 10 years' imprisonment. Society generally was intolerant of homosexuality, and many churches condemned it.

*Other Societal Violence or Discrimination.*—There was no perceptible discrimination against those with HIV/AIDS, in part because the disease was widespread in the general population, including women infected by partners engaging in sex with men and boys, and partly because of societal pressures to keep one's status quiet. The government encouraged citizens to be tested and to get treatment. An NGO, GRENCHAP, provided counseling to those affected by HIV/AIDS. A local business organization urged local companies to educate themselves and their workers about HIV/AIDS in the workplace and not to discriminate against employees with the disease.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and law allow workers to form and join independent labor unions. Labor ministry officials estimated that 52 percent of the work force was unionized. All major unions belong to one umbrella labor federation, the Grenada Trades Union Council, which was subsidized by the government.

The law does not oblige employers to recognize a union formed by their employees if the majority of the work force does not belong to the union; however, they generally did so in practice.

The contracts between the government and the government worker unions expired in December 2008, and negotiation of new contracts was pending at year's end.

The law provides workers with the right to strike, and workers exercised this right in practice. The Technical and Allied Workers Union at different times during the year brought a number of the groups it represented out on brief strikes. All the cases were resolved.

*b. The Right to Organize and Bargain Collectively.*—Workers exercised the legal right to organize and to participate in collective bargaining. The law requires employers to recognize a union that represents the majority of workers in a particular business.

The law prohibits antiunion discrimination, and employers can be forced to rehire employees if a court finds they were discharged illegally.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The government prohibits forced or compulsory labor, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although child labor is illegal, children sometimes worked in the agricultural sector on family farms. The statutory minimum age for employment of children is 18 years. Inspectors from the Ministry of Labor enforced this provision in the formal sector through periodic checks, but enforcement in the informal sector remained a problem. The

minimum age for work applies to family farms, and the labor ministry had authority to inspect these farms, which it did when there were allegations of violations of labor law.

*e. Acceptable Conditions of Work.*—The Ministry of Labor last revised minimum wages in 2002. In 2008 a tripartite committee reviewed wage levels but took no action to set a new minimum wage. The process was transparent and involved site visits to examine 14 categories of employees. The 2002 minimum wages were still in effect for various categories of workers; for example, agricultural workers were classified into male and female workers. Rates for men were EC\$5.00 (\$1.85) per hour, and for women EC\$4.75 (\$1.75) per hour; however, if a woman performed the same task as a man, her rate of pay was the same. The minimum wage for domestic workers was set at EC\$400 (\$148) monthly. The national minimum wage did not provide a decent standard of living for a worker and family. The government effectively enforced minimum wages.

Although unemployment and underemployment remained high, the absence of labor market statistics hindered economic policy development. During the year approximately 30 percent of the population earned less than the official poverty line, which was drawn at EC\$599 (\$222) per month.

The law provides for a 40-hour maximum workweek. The law does not stipulate rest periods, although no one can be asked to work for longer than five hours consecutively without a one-hour meal break. In addition, domestic employees may not, by law, be asked to work longer than a 10-hour period without at least two hours of breaks for meals and rest periods. Union-negotiated contracts often mandated rest breaks. The law requires a premium for work above the standard workweek and prohibits excessive or compulsory overtime.

The government sets health and safety standards, but the authorities enforced them inconsistently. Workers have the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

## GUATEMALA

Guatemala is a democratic, multiparty republic with a population estimated at 14 million. Alvaro Colom of the National Unity of Hope (UNE) party won the 2007 presidential election, which international observers generally considered free and fair, and began his four-year term in January 2008. While civilian authorities generally maintained control of the security forces, there were instances in which members of the security forces committed illegal acts, including human rights abuses.

Although the government generally respected the human rights of citizens, a wide variety of serious problems remained. These included the government's failure to investigate and punish unlawful killings committed by members of the security forces; widespread societal violence, including numerous killings; corruption and substantial inadequacies in the police and judicial sectors; police involvement in serious crimes; impunity for criminal activity; harsh and dangerous prison conditions; arbitrary arrest and detention; failure of the judicial system to ensure full and timely investigations and fair trials; failure to protect judicial sector officials, witnesses, and civil society representatives from intimidation; threats and intimidation against, and killings of, journalists and trade unionists; discrimination and violence against women; trafficking in persons; discrimination against indigenous communities; discrimination on the basis of sexual orientation and gender identity; and ineffective enforcement of labor laws and child labor provisions.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Although there were no reports that the government or its agents committed any politically motivated killings, members of the police force committed unlawful killings. Corruption, intimidation, and ineffectiveness within the police and other institutions prevented adequate investigation of many such killings as well as the arrest and successful prosecution of perpetrators. An Amnesty International (AI) report issued on December 15 described police and security force involvement in alleged extrajudicial killings and criticized investigations for being delayed or ineffective.

The National Civilian Police (PNC) and its Office of Professional Responsibility (ORP) reported that they investigated 17 accusations of killings involving 16 PNC agents, all of whom remained under investigation at year's end.

On January 20, authorities arrested PNC officers Mynor Joel Loarca Morales and Isaias Miguel Pineda for the January 15 killing of Walter Garcia Suruy in Guatemala City. Suruy had formally accused the two officers of car theft. No further information was available at year's end.

On April 14, unknown persons shot and killed Khalil Musa, a prominent coffee grower and businessman, and his daughter, Marjorie, in Guatemala City. At year's end authorities had not charged anyone in their deaths. On May 10, Rodrigo Rosenberg Marzano, a lawyer retained by the Musa family, was also shot and killed in Guatemala City. Following an exhaustive investigation, the UN-sponsored International Commission against Impunity in Guatemala (CICIG) announced its finding that Rosenberg had arranged for his own murder. CICIG also exonerated President Colom and close associates in his administration regarding the accusation, made by Rosenberg in a video filmed just before his death, that they had orchestrated his killing.

In September and October, authorities arrested 11 members of an organized crime group for organizing and carrying out Rosenberg's murder. Six were either active or former PNC agents, and one was a retired soldier. The Public Ministry (MP or the Attorney General's Office) charged five persons with murder and four with illicit association and issued warrants for others who allegedly served as middlemen for Rosenberg in arranging his killing. Three suspects remained at large at year's end.

On May 27, after the driver of a truck in which 15-year-old Pedro de Jesus Sacul Pop rode failed to obey an order to stop in Alta Verapaz, a group of soldiers opened fire and killed him. On June 26, authorities arrested 12 soldiers (Leopoldo Chen Tiul, Hugo Cuz Cuz, Audiel Salazar Cortez, Edy Ronal Caal Colay, Rudy Alberto Sarceno, Walter Raul Ramirez, Mario Enrique Iseem Caal, Jose Luis Lopez Sanchez, Oscar Anibal Garcia Ramirez, Javier Cacao Coy, Oscar Ramirez Gudiel, and William Augusto Cetino Garcia) for the killing. At year's end the 12 soldiers remained free on bail as the MP's investigation of the case continued.

On July 4, the PNC arrested three MP prosecutors (Mario Adolfo Soberanis Pinelo, Oscar Efrain Vasquez Fuentes, and Rigoberto Arturo Castanon Mejia) and two PNC officers (Marlon Josue Garcia Lopez and David Ezequiel Vasquez) for conspiring to obstruct justice in the killing of Castulo and Ana Leticia Vasquez Garcia. The main suspect in the case (also arrested on July 4) was reportedly the victims' brother, Jeiner Estanislao Vasquez Garcia, in whose home a June 16 video allegedly showed the arrested prosecutors and police officers failing to impound money and weapons and altering and destroying evidence. At year's end the six suspects remained in custody awaiting trial.

At year's end PNC agents Omar Evidan Godoy Arana and Gendy Misael Chinchilla Samayoa remained in custody awaiting trial for the February 2008 killing of bus assistant Jose Angel Hernandez.

On February 3, charges were filed against former MP chief homicide prosecutor Alvaro Matus for abusing authority and failing to fulfill his duties with respect to investigating the April 2008 killing in Guatemala City of Victor Rivera, former advisor to a government minister and former head of the PNC anti-kidnapping unit. On June 17 and 18, authorities arrested three MP assistant prosecutors (Denys Billy Herrera Arita, Carlos Rodriguez Serrano, and Pedro Pablo Giron Polanco) and MP deputy chief Leyla Susana Lemus Arriaga on charges of obstruction of justice and conspiracy for their alleged role in aiding Matus. On December 28, at a pretrial hearing, the Eighth Penal Court added obstruction of justice and conspiracy charges against Matus as well. At year's end the five suspects remained in custody as an MP investigation continued.

On March 31, the Seventh Sentencing Court sentenced three former PNC agents (Juan Carlos Jalal Caal, Julio Roberto Aguirre Martinez, and Israel Barco Arana) to 25 years' imprisonment for the April 2008 shooting and killing of Jorge Eduardo Rivera-Cabezas Klusmann, who had failed to obey a stop order.

On November 23, the Sentencing Court of Coatepeque absolved three Criminal Investigation Division detectives charged in the June 2008 killings of the son and former husband of Edilma Navarijo, mayor of Ocos, San Marcos.

On February 16, authorities arrested Sandro Adrian Ramos Venegas, a former PNC officer, for alleged involvement in the November 2008 killings of 16 occupants of a Nicaraguan bus in eastern Guatemala. On March 27, the MP arrested Rony Eduardo Terraza Hernandez, a possible member of the "Taquero" narcotics trafficking organization, for alleged participation in the killings. The two suspects remained in custody at year's end awaiting trial.

At year's end the nine PNC officers arrested as suspects in the alleged 2007 killing of Antonio de Leon Lopez in Huehuetenango during an antinarcotics operation remained in custody awaiting trial, while a tenth officer remained at large.

There were no developments in the cases of the Jutiapa mayor-elect and former member of Congress, Manuel Castillo, and his assistant, Carlos Alberto Gutierrez, who were arrested in 2008 for alleged involvement in the 2007 killings of three Salvadoran members of the Central American Parliament (PARLACEN) and their driver. At year's end both remained in custody, with Castillo facing seven charges.

At year's end the former director of El Boqueron prison, Manuel Antonio Recinos Aguirre; his deputy, Baldimiro Rodene Lopez y Lopez; and several police officers with alleged ties to narcotics trafficking in Jutiapa remained in custody awaiting trial in connection with the killing of four PNC suspects in the 2007 PARLACEN case.

On December 22, the Supreme Court ordered the reopening and reinvestigation of the 1993 assassination of Jorge Carpio Nicolle, a former presidential candidate and prominent journalist, as well as the killing of three of his close political associates. The Supreme Court was complying with a 2004 decision by the Inter-American Court of Human Rights, which found that the previous investigation by the country's authorities was flawed. The Supreme Court offered to provide security for witnesses, judges, prosecutors, and family members who participate in the new process.

Also on December 22, the Supreme Court ordered the reopening and reinvestigation of two other high-profile human rights cases. The first, known as the "street children" case, involved the alleged abduction, torture, and killing by state security forces of five street children in 1990. The second was known as the "white van" case, in reference to a van that state security agents allegedly used during 1987 and 1988 in the kidnapping and killing of five civilians.

At year's end former army captain Jose Antonio Solares Gonzalez and former Civil Defense Patrol members Ambrosio Perez Laju and Domingo Chen—three suspects sought for the 1982 killings of 177 civilians in Rio Negro, Baja Verapaz—remained at large, despite court orders.

According to PNC statistics, vigilante mobs (most often in rural indigenous communities) killed 49 persons and injured 216 in lynchings during the year. Many observers attributed the lynchings to public frustration with the failure of police and judicial authorities to guarantee security and to the emergence of local citizen security groups. There were continued reports of community lynchings of individuals suspected of rape, kidnapping, or attempted kidnapping of children to sell for adoption. In many instances, PNC agents refused to intervene out of fear for their own safety.

On March 16, Huehuetenango community members reportedly captured, beat, tortured, dismembered, and set on fire three suspected motorcycle thieves. Citizens claimed that an investigation they had conducted revealed the suspects as responsible for the theft. On July 10, two alleged thieves were lynched in Villa Canales. Police found one victim, Manolo Estrada, tied to a post and shot. On November 16, citizens in Chimaltenango burned to death a police officer accused of attempted extortion. On November 27, a mob in Solola burned to death three persons, including a 16-year-old boy, whom the PNC had arrested earlier that day on suspicion of killing a bus driver and a passenger. The mob also set fire to the governor's office, the PNC station, three patrol cars, and a motorcycle. On December 4, citizens in Huehuetenango burned to death three persons accused of killing a woman. On December 5, citizens beat to death a man accused of theft in Panajachel, captured his three alleged accomplices, burned four police vehicles and a gas station, and damaged a police station and a municipal building. Police later freed the accomplices.

There were no developments, and none were expected, in the January 2008 shooting and killing in San Juan Sacatepequez of a 17-year-old whom a vigilante group suspected of being a gang member. The group also killed the victim's brother and father, who had attempted to intercede.

Similarly, there were no developments, and none were expected, in the September 2008 lynching by community members in San Pedro Yepocapa, Chimaltenango, of a 22-year-old man accused of assaulting and robbing bus passengers and raping four women.

*b. Disappearance.*—Although there were no reports of politically motivated disappearances, there were reports of police involvement in kidnappings for ransom. The PNC's ORP reported that during the year there were 11 complaints of kidnapping by PNC personnel.

There were no developments in the 2007 disappearance of security guard Marcos de Jesus Garcia Sarmiento from the alleged hiding place of former fugitive Gustavo Herrera.

There were also no known developments in the MP investigation of the 2007 kidnapping of Marco Tulio Moreno Ramirez, reportedly committed by men wearing PNC-type uniforms.



On December 29, in response to a 2002 Inter-American Court of Human Rights order, the Supreme Court reopened the case of the forced disappearance in 1992 of guerrilla leader Efraim Bamaca Velasquez.

On March 5 and 6 respectively, authorities arrested PNC officer Hector Roderico Rodriguez Rios and retired PNC officer Abraham Lancerio Gomez, former members of the disbanded National Police, in the case of the 1984 forced disappearance of labor leader Edgar Fernando Garcia, whose widow is Congresswoman Nineth Montenegro. The suspects remained in custody at year's end on charges of illegal detention, kidnapping, and abuse of authority; authorities also issued arrest warrants for two other suspects.

On August 31, a Chimaltenango court convicted former military commissioner Felipe Cusanero Coj of the forced disappearances in Choatalum, San Martin Jilotepeque, Chimaltenango, between 1982 and 1984 of Lorenzo Avila, Alejo Culajay, Filomena Lopez, Encarnacion Lopez, Santiago Sutuj, and Mario Augusto Tay—all members of the Kaqchiquel Mayan indigenous group—and sentenced him to 150 years' imprisonment.

On December 3, a Chiquimula court convicted and sentenced retired army colonel Marco Antonio Sanchez Samayoa and three former military commissioners (Jose Domingo Rios, Gabriel Alvarez Ramos, and Salomon Maldonado Rios) each to 53 years in prison for the 1981 forced disappearances of the following eight individuals from El Jute village: Jacobo Crisostomo Cheguen, Miguel Angel Cheguen Crisostomo, Raul Cheguen, Inocente Gallardo, Antolin Gallardo, Valentin Gallardo, Santiago Gallardo, and Transito Rivera. The court also ordered an investigation of former minister of defense Angel Anibal Guevara, former army chief of staff Benedicto Lucas Garcia, and army officers and soldiers who served at the Zacapa military base when the disappearances occurred.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and the law prohibit such practices, there were credible reports of torture, abuse, and other mistreatment by PNC members. Complaints typically related to the use of excessive force during police operations.

There were no developments in the February 2008 alleged police beatings of two bus assistants.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and dangerous, and there were multiple instances of killings by inmates. The prison system continued to suffer from a severe lack of resources, particularly in the areas of prison security and medical services and facilities. Prisoners complained of inadequate food and medical care. Corruption, especially related to illegal drug sales and use, was widespread. Prison officials reported frequent escape attempts, gang fights, and other manifestations of prisoner unrest. Prisoners reportedly used cell phones frequently to demand extortion payments, coordinate kidnappings for ransom and killings of bus drivers and assistants, and direct other criminal activity both inside and outside the prison. Several prisons installed equipment to block such calls, but at year's end the final installation for equipment activation was incomplete.

Prison overcrowding continued to be a problem, although in September the government opened a new high-security prison in Fraijanes capable of holding 230 inmates. According to the prison system registry, as of mid-December, 19 prisons and jails designed to hold 6,974 persons held 9,801 persons. Of the national penitentiary system population, approximately 45 percent was in pretrial detention; 579 were adult women, 358 were boys held in three centers, and 31 were girls.

Inadequate security measures undermined the penitentiary system's ability to control prisoners effectively; there were only 2,144 prison guards nationwide. In the prisons, 16 percent of inmates reportedly belonged to gangs, which were active in prisons and occasionally attacked prison guards. Prison work and educational programs were inadequate to rehabilitate prisoners and decrease the 90 percent recidivism rate.

The media and nongovernmental organizations (NGOs) reported that physical and sexual abuse of women and juvenile inmates was a serious problem. Many of the abused juvenile inmates were suspected gang members.

On February 4, the PNC arrested Jorge Torres, director of the Pavoncito Preventive Prison, as well as seven prison guards for their alleged complicity in the February 1 escape of inmate Leonel Giovanni Herrera Reyes, who was serving a 50-year sentence for a 2003 rape and homicide.

On September 4, six inmates (Byron Alberto Morales Villatoro, Carlos Esteban Galindo Pardo, Wilmer Armando Argueta, Jose Armando Sapon Ola, and former PNC officers Leopoldo Zaid Castillo Belloso and Bartoleme Teni Cuc)—believed to be members of a kidnapping band—escaped from the Quetzaltenango Preventive Prison. Authorities subsequently arrested five PNC agents (Gonzalo David Morales,

Hilario Antonio Lopez, Juan Carlos Mendez, Jose Pedro Rojas, and Francisco Javier Agustin) for allegedly aiding the escape.

In September the minister of government fired 37 prison system employees, including the director, deputy director, manager, and guards of the El Boqueron Prison; ordered their investigation for allegedly allowing inmates under their control to possess money, guns, and drugs; and moved gang leaders into the new high-security prison at Fraijanes. Subsequent (apparently coordinated) retaliatory incidents included the firing by unknown assailants of more than 35 AK-47 rounds at the prison system headquarters, the killings in Guatemala City of a prison guard and the El Progreso Jail deputy director, and the killings of the Chimaltenango Jail deputy director and a guard in Chimaltenango. On October 31, unknown assailants in Guatemala City shot and killed one prison guard and injured two others and, on the outskirts of the city, unknown assailants shot and killed a guard and injured two others. The PNC and the Ministry of Government (MOG) responsible for the penitentiary system ascribed these attacks to retaliation for the MOG's attempted disruption of gang activity in prisons. The minister of government specifically attributed the attacks to incarcerated gang leader Jorge Jair Hernandez, who allegedly operated a criminal organization from El Boqueron Prison.

At year's end there were no known developments in the MP investigation of the 2007 case of prison guard Irma Barrientos, who allegedly prostituted female prisoners in Jalapa and extorted a commission on money sent to prisoners.

On rare occasions, male and female detainees in immigration facilities were held together. Pretrial detainees sometimes were held in the same prison blocks with the general prison population, and, on rare occasions, juveniles and adults were held together.

The government permitted prison monitoring visits by local and international human rights groups, the Organization of American States, public defenders, religious groups, and family members; such visits took place throughout the year.

*d. Arbitrary Arrest or Detention.*—The constitution and the law prohibit arbitrary arrest and detention, but there were credible reports of arrests without judicial warrants, illegal detentions, and failure to adhere to prescribed time limits in legal proceedings. In practice arresting officers sometimes failed to bring suspects before magistrates within the legally mandated six-hour deadline, and magistrates sometimes failed to hold a hearing within the legally mandated 24-hour period.

*Role of the Police and Security Apparatus.*—The 19,465-member PNC, headed by a director general appointed by the minister of government, remained understaffed, inadequately trained, and insufficiently funded. As of December, the PNC reported 65 deaths of PNC personnel, 30 in the line of duty.

While no active members of the military served in the police command structure, the government continued to employ the military to support police units in response to rising crime. Joint police and military operations under PNC operational control continued in Guatemala City high-crime areas as well as other areas.

Police corruption remained a serious problem, and there were credible allegations of involvement by individual police officers and some police units in criminal activity, including rapes, killings, and kidnappings. Police and immigration officials reportedly extorted and mistreated persons attempting to enter the country illegally.

On August 7, President Colom fired PNC director general Porfirio Perez Paniagua and three of his top lieutenants (deputy director general Rolando Mendoza Perez, deputy director of operations Victor de Jesus Lopez, and deputy director of investigations Hector David Castellanos Soto) on suspicion of having masterminded an attempt to steal more than 2,200 pounds of cocaine during an August 6 counter-narcotics operation in Guatemala City. On August 18, authorities arrested Orlando Evangelista Villatoro Alvarado, the PNC special division of criminal investigations operations chief, in connection with the attempted theft. At year's end an arrest warrant for Castellanos remained unimplemented, and the MP continued to investigate Paniagua and other PNC officers.

On August 28, authorities arrested Paniagua and two subordinate PNC officers (Benigno Lopez Fuentes and Mario Roberto Castillo) on separate charges of stealing \$350,000 in cash that the PNC had originally seized on June 10 in Chimaltenango.

Police impunity remained a serious problem. The PNC routinely transferred officers suspected of wrongdoing rather than investigating and punishing them.

There were credible reports that PNC officers or persons disguised as police officers stopped cars and buses to demand bribes or steal private property. In some cases the supposed police officers assaulted and raped victims.

On September 21, the Second Penal Court sentenced PNC chief Elias Lemus Guerra, deputy inspector Jose Lopez Hernandez, and agents Jorge Garcia Ortiz and Dennis Gueiry Godinez to prison terms ranging from five to eight years for the April

2008 illegal detention of Eleazar Rodas in Guatemala City as well as for threats, theft, and abuse of authority.

There were no developments in the September 2008 case of two deputy PNC commissioners under arrest and 12 other PNC officers under MP investigation for alleged involvement in a Guatemala City criminal group.

Police threatened persons engaged in prostitution and other commercial sexual activities with false drug charges to extort money or sexual favors and harassed lesbian and gay persons and transvestites with similar threats. Critics accused police of indiscriminate and illegal detentions when conducting antigang operations in some high-crime neighborhoods. Security officials allegedly arrested and imprisoned suspected gang members without warrants or sometimes on false drug charges.

The ORP conducted internal investigations of misconduct by police officers. During the year the ORP reported receiving 776 complaints, which included 17 complaints of killings, three forced disappearances, 11 kidnappings, six illegal detentions, 80 thefts, three rapes, 81 threats, and 323 cases of abuse of authority.

Although the ORP forwarded to the MP for further investigation and prosecution cases with sufficient evidence of criminal activity, few such cases went to trial. At year's end the ORP had investigated 69 police officers. The PNC did not provide statistics on the resolution of these cases, some of which remained pending at year's end.

The PNC trained 3,770 cadets in human rights and professional ethics, compared with 2,810 in 2008. The army required civil affairs officers at each command to plan and document human rights training provided to soldiers. As of year's end, 5,760 military officers and soldiers had received human rights training, according data provided by the Ministry of Defense.

Approximately two-thirds of police districts remained understaffed. Indigenous rights advocates asserted that continuing lack of sensitivity by security authorities to indigenous cultural norms and practices engendered misunderstandings and complained that few indigenous police officers worked in their own ethnic or linguistic communities.

*Arrest Procedures and Treatment While in Detention.*—The constitution and the law require that a court-issued arrest warrant be presented to a suspect prior to arrest unless the suspect is caught in the act of committing a crime. Police may not detain a suspect for more than six hours without bringing the case before a judge. Detainees often were not promptly informed of the charges filed against them. Once a suspect has been arraigned, the prosecutor generally has three months to complete the investigation and file the case in court or seek a formal extension of the detention period. The law provides for access to lawyers and bail for most crimes. The government provided legal representation for indigent detainees, and detainees had access to family members.

At year's end the ORP had received six accusations of illegal detention. There were no reliable data on the number of arbitrary detentions, although most accounts indicated that police forces routinely ignored writs of habeas corpus in cases of illegal detention, particularly during neighborhood antigang operations.

In high-crime areas of Guatemala City, Mixco, and Villa Nueva, the government continued to operate three 24-hour court pilot projects that significantly reduced the number of cases dismissed for lack of merit or on technical grounds and increased the prosecution rate in the Guatemala City metropolitan area. Year-end statistics for the 24-hour court in Guatemala City indicated that only 9.4 percent of those who were brought before the court were released for cases lacking merit or technical grounds, compared to 77 percent who were released for these reasons in 2005 before the 24-hour court was established. These projects also enhanced the government's ability to comply with legal requirements to bring suspects before a judge within six hours of initial detention.

Although the law establishes a three-month limit for pretrial detention, prisoners often were detained past their legal trial or release dates. Some prisoners were not released in a timely fashion after completing full sentences due to the failure of judges to issue the necessary court order or due to other bureaucratic problems. A judge has the discretion to determine whether bail is necessary or permissible for pretrial detainees, depending on the circumstances of the charges.

*e. Denial of Fair Public Trial.*—While the constitution and the law provide for an independent judiciary, the judicial system often failed to provide fair or timely trials due to inefficiency; corruption; insufficient personnel and funds; and intimidation of judges, prosecutors, and witnesses. Most serious crimes were not investigated or punished. Very few reported crimes were prosecuted; fewer resulted in conviction. A Myrna Mack Foundation study released in July stated that the MP pressed formal charges in 3 percent of 13,342 homicide cases between the beginning of 2006

and the middle of 2008. Many high-profile criminal cases remained pending in the courts for long periods, as defense attorneys employed successive appeals and motions.

On July 17, Congress approved a two-year extension of the mandate of the International Commission against Impunity in Guatemala through September 11, 2011. The UN and the government agreed to establish the UN-led CICIG in 2006 to investigate and prosecute cases involving criminal penetration of the state and to advance rule-of-law reforms.

During the year Congress also passed and implemented reform legislation designed to make the selection of Supreme Court and appellate court judges more transparent. In the September 30 selection of 13 Supreme Court justices, a special committee developed a list of 26 candidates from the 250 names it had ranked, based on legislated criteria. Despite public denunciation of eight of the 26 by CICIG commissioner Carlos Castresana, Congress elected six of the eight denounced candidates. However, on October 7, after international criticism, Congress partially reversed itself, deciding that three of the six justices Castresana named were not qualified, and replaced them with three others from the list of 26.

There were numerous reports of corruption, ineffectiveness, and manipulation of the judiciary. Judges, prosecutors, plaintiffs, and witnesses also continued to report threats, intimidation, and surveillance. At year's end the special prosecutor for crimes against judicial workers received 68 cases of threats or aggression against workers in the judicial branch, compared with 129 in 2008.

The MOG assigned police officers to CICIG to augment security, and the MP-created, CICIG-vetted prosecutor unit continued to be directly supervised by a senior CICIG prosecutor. At year's end CICIG continued its investigation of 15 high-profile cases, 39 prosecutions, and various cases involving killings of women, bus drivers, and assistants; trafficking in persons; and attacks against and killings of unionists and human rights defenders.

On July 4, Leopoldo Liu, the chief prosecutor in the MP for money laundering, resigned after receiving death threats.

On September 10, unidentified gunmen shot and killed PNC agent Dimas Godoy when he surprised them trying to break into the residence of MP chief prosecutor for organized crime Rony Lopez.

There were credible reports of killings of witnesses.

On September 3, a court acquitted Juan Ignacio Monzon Guillen, Gabriel Ruche Pixtun, William Donald Hernandez, and Marvin Leonel Coc—members of the Monzon gang—of all charges in the January 8 killing of Blanca Leticia Amperez Velasquez, a protected witness in the case against gang leader Wilfredo Monzon Gillen.

On February 16, unidentified gunmen attempted to kill Sandro Ramos Vanegas, a protected witness in the 2008 Nicaraguan bus-killing case, in Guatemala City.

On May 18, unknown gunmen in Mazatenango killed Nery Angel Urizar Garcia, a former army intelligence operative and witness in the Efraim Bamaca forced disappearance case.

There were no known developments in the 2007 killing of Dalia Evangelina Garcia Illescas, a witness in the murder trial of PNC officer Jorge Macario Mazariegos.

Judge Eduardo Cojulum of the Eleventh Court of First Instance reportedly continued to receive death threats throughout the year for his assistance in the Spanish national court case brought by Rigoberta Menchu, in collaboration with NGOs, against five retired military officers and two civilians for alleged human rights violations committed during the internal conflict.

There were no developments concerning the March 2008 killing in Guatemala City by unknown assailants of MP Homicide Division clerk Ingrid Judith Borrayo and PNC officer Hugo Rolando Toj, who had been assigned to the MOG's Human Rights Division. According to the MP, the investigation remained officially open although the two main suspects in the case both died in separate incidents during the year.

There were also no developments in the May 2008 killing of Judge Jose Vidal Barillas Monzon, president of the Appeals Court of Retalhuleu, by unidentified gunmen. Judge Barillas had presided over organized crime, drug trafficking, and land disputes cases.

There were also no developments in the July 2008 killing of assistant homicide prosecutor Juan Carlos Martinez, chief prosecutor in the PARLACEN and Victor Rivera homicide cases, by unknown assailants.

The Supreme Court continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. The Judicial Disciplinary Unit investigated 165 complaints of wrongdoing and

held hearings for 55 complaints during the year but did not provide statistics on case resolution.

Prosecutors were often ineffective and remained susceptible to intimidation and corruption.

The judiciary consists of the Supreme Court of Justice, appellate courts, trial courts, and probable-cause judges (with a function similar to that of a grand jury) as well as courts of special jurisdiction, including labor courts and family courts. There were 388 justices of the peace throughout the country. Some of the justices specialized in administering traditional and indigenous law in community courts, which were under the jurisdiction of the Supreme Court. The Constitutional Court, which reviews legislation and court decisions for compatibility with the constitution, is independent of the rest of the judiciary.

At year's end the MP had 196 persons in its witness protection program.

*Trial Procedures.*—The constitution provides for the right to a fair public trial, the presumption of innocence, the right to be present at trial, and the right to counsel. Defendants and their attorneys have access to government-held evidence relevant to their case. The law provides for plea bargaining, possible release on bail, and the right of appeal. Three-judge panels render verdicts. The law provides for oral trials and mandates language interpretation for those needing it, in particular the large number of indigenous persons who are not fluent in Spanish, although inadequate government funding limited effective application of this requirement. The MP utilized 20 interpreters nationwide, including in former conflict areas of the country, and the Office of the Public Defender employed 35 bilingual public defenders in locations where they could also serve as translators.

The MP, acting semi-independently 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 plaintiffs. Lengthy investigations and frequent procedural motions used by both defense and prosecution often led to excessively long pretrial detention, frequently delaying trials for months or years.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The law does not provide for jury trials in civil matters. The law provides for administrative and judicial remedies for alleged wrongs, including the enforcement of domestic court orders, but there were problems in enforcing such orders. Some killings resulted from PNC failure to enforce restraining orders promptly.

*Property Restitution.*—In November 2008 the president signed an agreement with leaders of the group of families that lost relatives during the Rio Negro massacres in the early 1980s, known as the Coordinator of the Communities Affected by the Construction of the Chixoy Dam. In the agreement the government acknowledged “damages and violations” and accepted responsibility to provide reparations to families of the victims. An ad hoc presidential commission continued to work on a plan to implement this agreement.

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

At year's end the espionage trial of former chief of presidential security Carlos Quintanilla, who voluntarily surrendered in December 2008, continued in connection with the discovery of listening devices in the offices of the president and first lady. On January 8, facing similar charges, the former head of the secretariat of strategic analysis, Gustavo Solano, voluntarily surrendered, and at year's end he remained under house arrest awaiting trial.

There were no developments, and none were expected, in the cases of the November 2008 break-in of the home of Ruth del Valle, the presidential human rights commissioner, and the 2007 break-ins at the offices of three NGOs.

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

*a. Freedom of Speech and Press.*—The constitution and the law provide for freedom of speech and press, and the government generally respected these rights in practice.

The independent media, including international news organizations, operated freely and actively and expressed a wide variety of views without overt government restriction. During the year, however, some members of the press reported being pressured by various public officials. Some owners and members of the media also accused the government of following a discriminatory advertising policy, particularly with respect to leading print and broadcast media that expressed news or com-

mentary perceived as critical of the president, his administration, the first lady, or public officials and programs.

Members of the press claimed that increasing levels of impunity and violence in the country, particularly associated with narcotics trafficking, threatened the practice of free and open journalism. The press also complained of threats made against them by organized crime and drug trafficking organizations, noting that these threats increased their sense of vulnerability.

During the year the Special Prosecutor's Unit for Crimes against Journalists and Unionists received 39 complaints of attacks and other acts of intimidation against journalists. The MP reported 24 incidents of intimidation of journalists, compared with 10 during 2008. A 2008 UN Development Program report categorized the country as a "country of risk" for journalists, based on violence against the media and violations of freedom of expression.

On April 1, unknown gunmen killed Telecentro 13 television journalist Rolando Santis in Guatemala City and injured an accompanying cameraman, Juan Antonio De Leon Villatoro.

On June 6, an unknown assailant shot and killed Telediario television correspondent Marco Antonio Estrada Orla in Chiquimula.

On September 1, Vice President Rafael Espada filed an accusation of slander against journalist Marta Yolanda Diaz Duran, who had accused him in an opinion column of having met with lawyer Rodrigo Rosenberg days before he was killed on May 10 (see section 1.a.).

There were no developments in the following cases:

The May 2008 killing of Prensa Libre correspondent Jorge Merida Perez in Coatepeque, Quetzaltenango, after he reported corruption in Coatepeque municipality and alleged the mayor's connection to drug trafficking.

The July 2008 death threat case of Prensa Libre news correspondent Danilo Lopez, who reported on corruption in the Suchitepequez governor's office.

The July 2008 shooting attack on the home of Radio Punto news correspondent Edin Rodelmiro Maaz Bol in Coban.

The 2007 attempted killing of Nuestro Diario correspondent Wilder Jordan.

The investigation of the 2007 anonymous death threats against the staff of Guatevision and their family members for coverage of the PARLACEN killings.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Leading independent print, broadcast media, and a growing number of small/medium-size news organizations featured Internet editions and operated freely. Individuals and groups engaged in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that in 2008 approximately 14 percent of the population accessed the Internet.

On May 14, in the aftermath of the killing of attorney Rodrigo Rosenberg, authorities arrested Twitter user Jean Ramses Anleu Fernandez and charged him with provoking financial panic by his "tweet" e-mail message calling on Rural Development Bank customers to close their bank accounts. The bank superintendent claimed the message caused withdrawal of 525 million quetzales (approximately \$66 million). On June 8, the Third Appeals Court issued a no-merit ruling and found that the tweet had not caused financial panic.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—Although the constitution and the law provide for freedom of assembly, and the government generally respected this right in practice, there were some allegations of unnecessary use of force or of police inaction during violent demonstrations.

*Freedom of Association.*—The constitution and the law provide for freedom of association, and the government generally respected this right in practice.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination against persons for their religious beliefs or practices, and no reports of anti-Semitic acts. The Jewish population numbered approximately 2,000 persons.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; and the government generally respected these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations.

The law prohibits forced exile.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. The constitution and the law provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

During the year the government received six requests for refugee status and accorded temporary protection, asylum, or refugee status to one person.

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

The constitution and the law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage for those 18 years of age and older. Members of the armed forces and police are not permitted to vote.

*Elections and Political Participation.*—In 2007 Alvaro Colom of the UNE party won a four-year term as president with approximately 53 percent of the vote. The Organization of American States international observation mission characterized the elections as generally free and fair. AI reported an estimated 26 killings of political activists in the context of the election.

There were 20 women in the 158-seat Congress. A total of 197 women served as judges nationwide, including one each on the Supreme Court and the Constitutional Court. There were no women in the 12-member cabinet. Six of the country's 332 mayors were women.

There was one indigenous cabinet member, no indigenous Supreme Court justices, 113 indigenous mayors, and approximately 20 indigenous members of Congress. A prominent indigenous leader has headed the Human Rights Office in the Ministry of Foreign Affairs since mid-2008.

*Section 4. Official Corruption and Government Transparency*

Government corruption was widely perceived to be a serious problem. World Bank governance indicators reflected that government corruption was a serious problem. The MP continued to investigate corruption charges against former president Alfonso Portillo, former vice president Reyes Lopez, and other senior members of previous governments.

On March 27, police arrested retired general Enrique Rios Sosa, Captain Pedro Adolfo Catalan Munoz, and retired lieutenant Miguel Angel Salguero Torres on charges of document forgery and embezzlement of 471 million quetzales (approximately \$59 million) from 2001 to 2003 during the Portillo administration. Three other suspects charged in the case (retired colonel Sergio Hugo Cardenas Sagastume; Navy captain Rodolfo Leonel Chacon Alvarez, naval school commander; and Colonel Luis Alberto Gomez Guillermo) thereafter turned themselves in. The presiding judge set no bail but ordered house arrest for all six, which continued at year's end.

On June 25, authorities arrested former minister of defense and minister of government Eduardo Arevalo Lacs on charges of embezzling army funds worth 120 million quetzales (approximately \$15 million) in 2001. At year's end he remained in custody awaiting trial.

Having resigned from office in August 2008 after acknowledging that his private secretary (Byron Sanchez) had illegally transferred 82.8 million quetzales (approximately \$11 million) of public funds to Mercade do Futuros (MDF), a private investment house, former president of Congress Eduardo Meyer delayed his trial on embezzlement charges while remaining under house arrest. Raul Giron, the MDF's general manager and legal representative, who voluntarily surrendered in August 2008, remained in custody awaiting trial for money laundering and fraud at year's end. Sanchez and former congressional chief financial officer Jose Conde, also wanted in the case, remained at large at year's end.

Authorities arrested former president of Congress Ruben Dario Morales on November 26 on embezzlement and fraud charges based on his alleged receipt of a 300,000-quetzal (approximately \$38,000) commission for investing congressional funds in the MDF in 2007. On December 3, the Seventh Penal Court placed Morales under house arrest on bail of 400,000 quetzales (\$50,000) while the MP continued its investigation.

On October 27, the Tenth Sentencing Court imprisoned former congressman Hector Loaiza Gramajo for 14 years on money laundering, fraud, and tax evasion charges related to the theft of gasoline trucks in 2006.

Former president Portillo continued to face charges for embezzlement allegedly committed during his presidency (2000-04), but the start of his trial was delayed due to appeals. He remained free on bail at year's end.

Public officials who earn more than 8,000 quetzales (approximately \$1,000) per month or who manage public funds are subject to financial disclosure laws overseen and enforced by the Controller General's Office. Lack of political will and rampant impunity facilitated government corruption.

The constitution provides for the right of citizens to access public information. A 2008 law in effect since April regulates the provision of, and facilitates access to, information held by public institutions. It covers all branches of government, requires all public and private entities that receive public funds to respond to public requests for information on their operations and administration of resources, and establishes sanctions for obstructing such public access. The press, however, has criticized the government for not having provided sufficient resources to allow government and publicly funded offices to comply fully with the new legislation. The country's Transparency International chapter noted that public access to government information has decreased since 2006 and that implementation of the 2008 law was slow.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

On February 16, the UN special representative on the situation of human rights defenders issued a report on her February 2008 follow-up visit to the country that expressed deep concern "at the deterioration in the environment in which human rights defenders operate, characterized by endemic impunity for crimes and violations" against them. She recommended that the government construct a human rights political agenda, take steps to legitimize the work of human rights defenders, institutionalize consultation processes with civil society, ensure coordination among investigatory bodies, reform witness protection measures and the police, monitor implementation of CICIG recommendations, protect public defender staff, and fund the government's human rights ombudsman (PDH).

In partial implementation of the March 2008 Constitutional Court decision that four early-1980s military counterinsurgency plans be declassified, the Ministry of Defense on March 6 surrendered two plans (Victoria 82 and eight of the estimated 200-plus pages of Firmeza 83) and claimed the other two (operations Sofia and Ixil) had been lost. An MP investigation and the Presidential Commission for Declassification of Military Archives continued at year's end.

In a November 2008 decision, the Inter-American Court of Human Rights held the government accountable for the 1990 forced disappearances of Maria Tiu Tojin and her daughter. The court recognized that the government had complied with some of its recommendations, including providing a letter of apology to the victims' family, the payment of two million quetzales (\$259,000) to family members, and the construction of a monument in the victims' memory. The court found, however, that the government had not done enough to establish the identities of those responsible or to locate the victims' remains.

On December 22, the Supreme Court decided to reopen four high-profile human rights cases from the 1980s and 1990s (see section 1.a.).

Many NGOs and human rights workers, as well as a number of trade unionists, reported threats or intimidation by unidentified persons, many with reputed links to organized crime, private security companies, and "social cleansing" groups, and complained that the government did little to investigate these reports or to prevent further incidents.

An NGO, the Guatemalan Human Rights Defenders Protection Unit (UDEFEFUGA), reported that, as of August, there had been 10 killings of human rights defenders. Reports suggested that former or current members of the police were involved in some of the killings. On May 21, the Inter-American Commission on Human Rights (IACHR) granted precautionary measures for the director (Iduvina Hernandez) and members of the NGO Association for the Study and Promotion of Security in Democracy and requested government protection for them in view of threats connected with their activities.



On September 29, and again on December 31, human rights activist Norma Cruz said that she had received repeated death threats for calling on authorities to prosecute Juan Jose Santos Barrientos, accused of killing Francisca Ayala Pinto and Carlos Cruz Pineda on May 11. Francisca Ayala was a key witness in the trial of Estuardo Ayala Casasola, who was convicted on April 25 of the statutory rape of a 13-year-old girl.

On October 18, unknown persons attacked and killed Fausto Leonel Otzin Poyon, a human rights lawyer and advocate for Mayan community rights, in San Juan Comalapa, Chimaltenango. At year's end an investigation was underway, but no suspects had been named or arrested.

There were no known developments in the MP's investigations in the following cases that the UDEFEGUA highlighted as examples of violence and intimidation against human rights defenders:

The March 2008 death threat against Bishop Alvaro Ramazzini, a supporter of rural communities in land-use conflicts.

The August 2008 death threat against indigenous leader Amilcar Pop, president of the Guatemalan Association of Mayan Lawyers.

The August 2008 killing in Colotenango, Huehuetenango, of indigenous community leader Antonio Morales Lopez, a member of the Committee of Peasant Unity and an activist for indigenous natural resource rights in opposition to mining projects.

The October 2008 death threat against a family member of Norma Cruz, director of the Survivors Foundation, in Guatemala City.

The Office of the Special Prosecutor for Human Rights opened new cases involving anonymous telephone or written threats, physical assaults, and surveillance of workplaces, residences, and vehicular movements. The majority of such cases remained pending for lengthy periods without investigation or languished in the court system, as defense attorneys filed successive motions and appeals to delay trials.

At year's end Erwin Gudiel Arias remained in custody awaiting an appeals court-ordered retrial for the 2007 killing of Jose Emanuel Mendez Dardon, son of former congressman and human rights leader Amilcar Mendez.

The resident Office of the UN High Commissioner for Human Rights advised and assisted the government and monitored the human rights situation. The government cooperated with the office and other international organizations, including CICIG.

PDH Sergio Morales, whose current five-year term runs until 2012, reports by law to Congress and monitors the human rights set forth in the constitution. The PDH operated without government or party interference, had the government's cooperation, and issued reports and recommendations that were made public, including an annual report to Congress on fulfillment of its mandate.

On March 24, the PDH released its first official report on the national police archives project (The Right to Know). It specifically publicized the case of the 1984 forced disappearance of a labor leader, allegedly by active and retired PNC members whom authorities arrested in early March and who remained in custody at year's end (see section 1.b.).

On April 8, the IACHR granted precautionary measures for the director and employees of the Office of the Human Rights Prosecutor and requested government protection in view of threats connected with their publication of historical police archives.

The President's Commission on Human Rights (COPREDEH), led by Ruth del Valle, is charged with formulating and promoting the government's human rights policy, representing the government before the IACHR, and negotiating amicable settlements in cases before the Inter-American Court of Human Rights. COPREDEH also led coordination of police protection for various human rights and labor activists during the year.

The Congressional Committee on Human Rights drafts and provides advice on legislation regarding human rights matters. By law all political parties represented in Congress are required to have a representative on the committee. NGOs reported that they considered the committee to be an effective public forum for promoting and protecting human rights.

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

The constitution and the law prohibit discrimination based on race, gender, disability, language, or social status. In practice the government frequently did not enforce these provisions due to inadequate resources, corruption, and a dysfunctional judicial system.

*Women.*—Sexual offenses remained a serious problem. The law criminalizes rape, including spousal rape and aggravated rape, and sets penalties between five and 50

years in prison. A 2008 law establishes penalties for physical, economic, and psychological violence committed against women because of their gender. At year's end 1,512 cases of economic violence and 2,033 cases of sexual abuse and other forms of physical violence were reportedly under investigation.

Police had minimal training or capacity for investigating sexual crimes or assisting victims of sexual crimes. The government maintained the PNC Special Unit for Sex Crimes, the Office of Attention to Victims, the Office of the Special Prosecutor for Crimes against Women, and a special unit for trafficking in persons and illegal adoptions within the Special Prosecutor's Office for Organized Crime. Rape victims sometimes did not report the crime for lack of confidence in the justice system and fear of reprisals.

Violence against women, including domestic violence, remained a common and serious problem. The law prohibits domestic abuse, provides for both the issuance of restraining orders against alleged aggressors and police protection for victims, and requires the PNC to intervene in violent situations in the home. In practice, however, the PNC often failed to respond to requests for assistance related to domestic violence. Women's groups commented that few officers were trained to deal with domestic violence or assist victims.

The Institute of Public Criminal Defense continued to provide free legal, medical, and psychological assistance to victims of domestic violence. By year's end the project had attended to 13,375 cases of domestic violence.

According to press reports, the government's Program for Prevention and Eradication of Intrafamily Violence, under the first lady's Secretariat of Social Work, received on average 565 calls daily from battered women and children via its three emergency hotlines. At year's end the MP reported that it received more than 31,641 complaints of violence against women and children, including domestic violence, economic violence, and sexual crimes. Of the 5,097 complaints of sexual crimes, at year's end the government reported 242 convictions. The MP did not provide data on punishment.

Justices of the peace issued an unspecified number of restraining orders against domestic violence aggressors and ordered police protection for victims. Full investigation and prosecution of domestic violence and rape cases usually took an average of one year. Although the law affords protection, including shelter, to victims of domestic violence, in practice there were insufficient facilities for this purpose.

The Office of the Ombudsman for Indigenous Women within COPREDEH provided social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. The office also coordinated and promoted action by government institutions and NGOs to prevent violence and discrimination against indigenous women but lacked human resources and logistical capacity to perform its functions on a national level. There were no firm statistics available on the number of cases the office handled.

Killings of all types continued, including those with reported evidence of sexual assault, torture, and mutilation of women. The NGO Guatemalan Women's Group reported that 721 women were killed from January to November 22. The PNC reported a total of 6,498 killings during the year, including 720 killings of women, compared with 6,292 total killings, including 687 women, in 2008. There were 219 prosecutions for killings of women in Guatemala City during the year, but few prosecutions resulted in convictions.

The MOG continued to operate eight shelters for victims of abuse in departments with the greatest incidence of domestic violence. The centers provided legal and psychological support and temporary accommodation. The Institute of Public Criminal Defense hotline to assist female victims of physical violence received approximately 60,113 calls during the year.

Although prostitution is legal, procuring and inducing a person into prostitution are crimes that can result in fines or imprisonment, with heavier penalties if minors are involved. Trafficking in women and minors, primarily for the purpose of prostitution, is illegal and was a widely recognized problem. There were credible reports that police and immigration service agents were complicit in trafficking or leaking information on imminent raids of brothels and other commercial sex establishments to criminal targets.

The law does not prohibit sexual harassment, and there were no accurate estimates of its incidence. Human rights organizations reported, however, that sexual harassment was widespread, especially in industries in which the workforce was primarily female, such as the textile and apparel sectors; it was also a problem in the police force.

Couples and individuals had the right to decide the number, spacing, and timing of children. On October 30, the government approved a regulation designed to help implement family-planning law by providing for access to family-planning informa-

tion and sex education throughout the public health system. Catholic and evangelical churches sought court injunctions against implementation of the regulation but did not succeed by year's end. According to UN data, two-thirds of urban births and 30 percent of rural births were attended by skilled personnel. At least 82 percent of women had at least one antenatal care visit, but no data were available about postpartum care. In general women and men had equal access to diagnostic services and treatment for sexually transmitted diseases, including HIV.

While the law establishes the principle of gender equality, in practice women faced job discrimination and were less likely to hold management positions. Women were employed primarily in low-wage jobs in agriculture, retail businesses, the service sector, the textile and apparel industries, and the government. They were more likely than men to be employed in the informal sector, where pay and benefits generally were lower. Women may legally own, manage, and inherit property on an equal basis with men, including in situations involving divorce.

The government's Secretariat for Women's Affairs advised the president on inter-agency coordination of policies affecting women and their development. The secretariat's activities included seminars, outreach, and providing information on discrimination against women.

A Guatemala City women's shelter for victims of violence continued to operate during the year with capacity to house 20 victims and their families for six months at a time.

*Children.*—Citizenship is derived by birth within the country's territory and from one's parents. The UNHCR reported that there were problems in registering births, especially in indigenous communities, due to inadequate government registration and documentation systems. Cultural factors, such as the need to travel to unfamiliar urban areas and interact with nonindigenous male government officials, at times inhibited indigenous women from registering themselves and their children. Lack of registration sometimes restricted children's access to public services.

Although the constitution and the law provide for free, compulsory education for all children up to the ninth grade, less than half the population over the age of 13 had completed primary education. Completion rates were lower in rural and indigenous areas.

Child abuse remained a serious problem. The Special Prosecutor's Office for Women, Unit of Adolescent and Child Victims, investigated cases of child abuse. It achieved 43 convictions in the 364 child abuse cases it opened between January and December.

The Secretariat of Social Welfare, with oversight for children's treatment, training, special education, and welfare programs, provided shelter and assistance to children who were victims of abuse but sometimes placed children under its care in shelters with juveniles who had criminal records.

Authorities investigated and prosecuted an estimated 90 cases of abduction or purchase of children, some involving more than one child, for purposes of offering them for adoption.

There were credible reports of forced early marriages in some rural indigenous communities.

Child prostitution remained a problem. Child sex tourism was not a widespread problem, although there were credible reports that some activity of this nature occurred in Antigua and Guatemala City. The minimum age of consensual sex is 18. The Law against Sexual Violence, Exploitation, and Trafficking in Persons that was passed in February provides sentences ranging from 13 to 24 years in prison, depending on the victim's age, for sex with a minor. The law also prohibits child pornography and establishes penalties of six to 10 years in prison for the production, promotion, and selling of child pornography and two to four years' imprisonment for possession of it.

The government conducted 65 rescue operations during the year, resulting in the rescue of approximately 30 sexually exploited minors under age 18. The Secretariat of Social Welfare handled 1,052 child protection cases, including cases of sexually exploited minors, as part of a national plan to combat the commercial sexual exploitation of children.

Credible estimates put the number of children who were members of street gangs at 3,000 nationwide. Many street children had left home after being abused. Criminals often recruited street children for purposes of stealing, transporting contraband, prostitution, and illegal drug activities. The NGO Mutual Support Group reported that, as of July, 28 minors suffered violent deaths nationwide. NGOs dealing with gangs and other youth reported concerns that street youth detained by police were subject to abusive treatment, including physical assaults.

The government operated a girl's shelter in Antigua and a boy's shelter in San Jose Pinula. Two other shelters in Quetzaltenango and Zacapa served both boys and

girls. The government devoted insufficient funds to shelters, and authorities often preferred to send juveniles to youth shelters operated by NGOs. The government provided no funding assistance for shelter costs to these NGOs. Security authorities incarcerated juvenile offenders at separate youth detention facilities.

*Trafficking in Persons.*—While the law prohibits trafficking in persons, trafficking was a significant problem, and there were reports that men, women, and children were trafficked to, from, through, and within the country. The law criminalizes trafficking in persons for all purposes and defines the categories of persons responsible for trafficking offenses. On February 18, Congress approved a reform law against sexual violence, exploitation, and trafficking in persons that establishes increased prison terms of eight to 18 years and fines of 300,000 to 500,000 quetzales (approximately \$38,000 to \$63,000) for persons found guilty of trafficking for sexual or labor exploitation. However, the government did little to implement the law after its entry into force in March and funding for antitrafficking efforts either remained the same or decreased.

The country was a source, transit, and destination country for citizens and other Central Americans trafficked for purposes of commercial sexual exploitation and forced labor. Women and children were trafficked within the country for sexual exploitation and to Mexico and the United States. Children were also trafficked for labor exploitation, including for begging rings in Guatemala City, but there were no reliable estimates on the extent of the problem.

The NGO End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes (ECPAT) reported in 2008 that children between the ages of eight and 14 were sold for 750 to 1,500 quetzales (approximately \$90 to \$190) to work in various economic activities, primarily for commercial sexual exploitation. According to ECPAT the incidences of trafficking in persons and the sale of children for sexual exploitation in 2008 likely increased due to higher unemployment rates and increasing numbers of individuals living in extreme poverty.

Trafficking was particularly a problem in towns along the country's borders. Children of Guatemalan and other Central American migrants who did not accompany their parents into Mexico often resorted to or were forced into prostitution. Many women and children also were brought into the country from El Salvador, Nicaragua, and Honduras by organized crime rings that forced them into prostitution. The primary target groups for sexual exploitation were girls and young women from poor families. In March Honduran media reported that four Honduran minors found in Guatemala were victims of commercial sexual exploitation and trafficking, and Guatemalan police arrested four suspects.

Trafficking organizations ranged from family businesses to highly organized international networks. Brothel owners in Mexico, Belize, and the United States often were responsible for transporting and employing victims of trafficking. Traffickers frequently had links to other organized crime, including drug trafficking and migrant smuggling.

Traffickers often approached individuals with false promises of economic rewards, jobs in cafeterias or beauty parlors, or employment in other countries. They used flyers, newspaper advertisements, and verbal or personal recommendations.

The MP operated a special unit within the Prosecutor's Office of Organized Crime to investigate and prosecute trafficking. A task force that included the MP, the PNC, and immigration authorities conducted an unspecified number of raids on bars and other commercial establishments.

The PNC and MP units responsible for combating trafficking were severely understaffed and underfunded. Weak institutional capacity, infiltration of organized crime, systemic corruption, lack of resources to aid victims, and lack of witnesses willing to aid prosecution also hampered government efforts. At year's end the MP's Special Unit against Trafficking in Persons received and investigated 400 trafficking cases, compared with 136 during 2008. During the year the MP prosecuted and the courts sentenced seven persons for trafficking offenses.

There were credible reports that some police and immigration service agents were complicit in trafficking of persons. ECPAT reported that some child victims of trafficking claimed immigration officials took bribes from traffickers, provided victims falsified identification papers, and allowed them to cross borders. There were credible reports that brothel owners allowed police and immigration officials to have sex with minor victims without charge.

Civil society and humanitarian organizations provided all the services specially designed for trafficking victims. However, the shelters operated by the government's Secretariat of Social Welfare in Antigua, San Jose Pinula, Quetzaltenango, and Zacapa to house victims of domestic abuse and abandonment and to offer social services, job training, and counseling also on occasion provided services to trafficking victims. During the year the NGO shelter Casa del Migrante assisted 966

victims of trafficking, including four cases involving minors. During the year one of the primary shelters for trafficking victims in Guatemala City, Alliance House, closed for financial reasons; its parent organization, Covenant House, planned to reopen a shelter in 2010.

Immigration officials generally deported foreign adult trafficking victims and did not treat them as criminals. Immigration officials deported an unspecified number of women found during bar raids back to Honduras, Nicaragua, and El Salvador. Victims were not prosecuted and were not required to testify against traffickers.

The Interagency Commission to Combat Trafficking in Persons and Related Crimes, headed by the Ministry of Foreign Affairs and including representatives of the executive, legislative, and judicial branches as well as NGOs and international organizations and totaling 27 entities, coordinated initiatives to combat trafficking. The government participated in a regional plan to combat trafficking in persons and the commercial sexual exploitation of children and adolescents.

The government gave increased attention to rescuing minors from commercial sexual exploitation in bars, brothels, and other establishments. The minors were referred to a number of NGOs, which provided shelter, medical treatment, psychological counseling, and job training.

The country cooperated with Mexico to assist victims in both countries. This cooperation included ensuring that repatriation of trafficking victims was handled separately from deportations. The country had repatriation agreements for minor victims of trafficking with El Salvador, Nicaragua, Honduras, Costa Rica, and Panama.

The MP worked with ECPAT to train government officials on crimes of sexual and commercial exploitation with an emphasis on trafficking of children. ECPAT provided numerous courses to more than 1,410 government officials nationwide, but the government made only a minimal effort to train justice officials in the new law on trafficking.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The constitution contains no specific prohibitions against discrimination based on physical disability in employment, education, access to health care, or the provision of other state services. The law, however, mandates equal access to public facilities and provides some other legal protections. In many cases, persons with physical and mental disabilities did not enjoy these rights, and the government devoted few resources to addressing the problem.

There were minimal educational resources for persons with special needs, and the majority of universities were not made accessible to persons with disabilities. The National Hospital for Mental Health, the principal health-care provider for persons with mental illness, lacked basic supplies, equipment, hygienic living conditions, and adequate professional staffing. The National Council for the Disabled, composed of representatives of relevant government ministries and agencies, met regularly to discuss initiatives and had a budget of five million quetzales (approximately \$610,000).

*Indigenous People.*—Indigenous persons from 22 ethnic groups constituted an estimated 43 percent of the population. The law provides for equal rights for indigenous persons and obliges the government to recognize, respect, and promote their lifestyles, customs, traditions, social organizations, and manner of dress.

Although some indigenous persons attained high positions as judges and government officials, they generally were underrepresented in politics and remained largely outside the country's political, economic, social, and cultural mainstream due to limited educational opportunities, poverty, lack of awareness of their rights, and pervasive discrimination. While the indigenous population increased its political participation, some civil society representatives questioned whether such participation had resulted in greater influence in the national political party structure. Indigenous lands often were not effectively demarcated, making land titles frequently problematic.

On March 4, the Defense for Indigenous Women announced that lawyer Sandra Santos Lopez was stabbed while exiting a court in Chimaltenango where she had been involved in a case related to indigenous women's rights.

On September 27, unknown persons killed an indigenous schoolteacher, Adolfo Ich Chaman, and injured seven other protesters who had gathered to protest a rumored eviction of community members by the Guatemalan Nickel Company (CGN) from disputed land near El Estor, Izabal. Authorities issued a warrant for the arrest of Mynor Padilla, who headed CGN's private security force in El Estor at the time of Chaman's death. Padilla remained at large at year's end.

According to AI, on September 2, police evicted approximately 80 indigenous Mayan Q'eqchi community members from their homes in the communities of Bella

Flor and 8 de Agosto, Alta Verapaz Department; burned houses; destroyed crops; and attempted to rape a 15-year-old girl. The underlying land dispute reportedly remained unresolved because the alleged landowners failed to attend negotiations.

During an October 12 protest in Guatemala City against government agrarian policy, a gunman reportedly shot and killed one indigenous rural worker and injured two others.

The NGO Human Rights First noted a tendency to criminalize social movements, especially community mobilizations against large-scale industrial projects that would negatively impact the livelihood of the community. Several indigenous community members of San Juan Sacatepequez had been arrested over the previous few years because of their opposition to the construction of a cement factory. In July 2008 authorities issued arrest warrants for eight individuals as a result of a dispute between a landowner and a mining company, the second dispute in 18 months in which residents opposed to the mine were targeted for arrest. At year's end there were no developments in the cases.

Rural indigenous persons had limited educational and employment opportunities. Many indigenous persons were illiterate, and approximately 29 percent did not speak Spanish, according to the 2006 National Statistics Institute National Survey of Life Conditions report, the latest data available. While the average nonindigenous child from seven to 17 years of age had received 4.4 years of schooling, indigenous children of the same age range had received an average of 3.7 years, according to the same report. More than 50 percent of indigenous women over the age of 15 were illiterate, and a disproportionate number of indigenous girls did not attend school. According to the Ministry of Education, 78,117 preschool- and kindergarten-age indigenous children were enrolled in Spanish-indigenous language bilingual education programs.

The Department of Indigenous People in the Ministry of Labor, tasked with investigating cases of discrimination and representing indigenous rights, counseled indigenous persons on their rights. This department had a budget of 60,000 quetzales (\$7,354) and only four employees to investigate discrimination claims.

Legally mandated court interpreters for criminal proceedings were rarely available, placing indigenous persons arrested for crimes at a disadvantage due to their sometimes limited comprehension of Spanish. There were 115 judges who spoke Mayan languages among the 536 tribunals in the country. There were 62 court interpreters, including 45 bilingual Mayan speakers, and the Supreme Court reported that the judicial system had 758 employees who spoke indigenous languages. However, in many instances bilingual judicial personnel continued to be assigned to areas where their second language was not spoken.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual rights support groups alleged that members of the police regularly waited outside clubs and bars frequented by sexual minorities and demanded that persons engaged in commercial sexual activities provide protection money. A lack of trust in the judicial system and a fear of further persecution or social recrimination discouraged victims from filing complaints. There was general societal discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons in employment, the workplace, and housing.

On September 29, a court ordered a stay of proceedings against LGBT rights defender Jorge Luis Lopez Sologaistoa, executive director of the NGO Organization to Support an Integrated Sexuality to Confront AIDS, who was accused of assaulting a sex worker in November 2008.

*Other Societal Violence or Discrimination.*—The law does not expressly include HIV/AIDS status among the categories prohibited from discrimination, and there was societal discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—While the law provides for freedom of association and the right to form and join trade unions for all workers with the exception of security force members, enforcement in practice remained weak and ineffective. Violence against unionists and worker activists combined with a lack of adequate enforcement of labor and employment laws weakened labor unions and restricted this right in practice. Only 8 percent of the formal-sector workforce was unionized.

The official report reviewing the petition filed in 2008 under the Central American Free Trade Agreement noted serious problems regarding labor law enforcement. The government made very limited progress during the year in addressing specific deficiencies highlighted in the submission, and systemic enforcement issues remained.

The Ministry of Labor granted legal status to 72 new labor unions, compared with 53 during 2008. Most of the new unions were small unions in the provinces, pri-

marily in the agricultural or municipal sector. Although there were 2,014 legally registered labor unions, 650 appeared to be active at year's end based on administrative registration records.

Legal recognition of a new industry-wide union requires that the membership constitute 50 percent-plus-one majority of the workers in an industry. The International Labor Organization (ILO) Committee of Experts (COE) stated in its annual report that the requirement restricted the free formation of unions.

At year's end an active "Solidarismo" (a national solidarity association movement) claimed to have 91 affiliated associations with approximately 30,000 members. Another 90 independent, nonaffiliated associations claimed approximately 50,000 members in addition. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to belong to either or both.

Labor leaders reported receiving death threats and being targets of other acts of intimidation. The Special Prosecutor's Unit for Crimes against Journalists and Unionists within the Office of the Special Prosecutor for Human Rights accepted 48 new union-related cases during the year. The unit achieved 10 convictions for crimes against trade unionists during the course of the year. The unit's small size (two full-time prosecutors and six assistant prosecutors) limited its effectiveness.

UDEFEGUA reported at year's end that 120 trade unionists had been attacked (a 255 percent increase over UDEFEGUA's 2008 figure for this category) and five killed by unknown assailants. It was generally difficult to identify motives for killings, since most were not well investigated and went unprosecuted. Local unions urged that the killings of unionists be investigated and called for increased security for union leaders and members. On October 29, CICIG announced that it intended to investigate the deaths of 20 union and peasant leaders killed since 2007.

On April 1, according to AI, unknown men threatened and shot at the house of Edgar Neftaly Aldana Valencia, secretary general of the National Health Professionals Union, San Benito branch, which reportedly has complained of corruption and discrimination at San Benito Hospital, Peten.

On October 25, according to the International Trade Union Confederation (ITUC), unknown assailants killed Victor Galvez, a union leader who had demonstrated in front of the National Electricity Institute.

Notwithstanding MP investigations in some instances, there were no known developments in the following cases from 2008:

The killing in March of labor leader Miguel Angel Ramirez Enriquez, a founder of the Union of Banana Workers of the South.

The April killing of Carlos Enrique Cruz Hernandez, a member of the Union of Banana Workers of Izabal (SITRABI).

The June killing of Freddy Morales Villagran, a member of the Consultative Council of the Peten Distributor Employees Union.

The August killing of Edvin Portillo, treasurer of the Pension Administration Board and member of the port workers union of the National Santo Tomas Port Company.

On January 10, authorities arrested Wilfredo Waldemar Valiente Garcia for the 2007 killing of Pedro Zamora, secretary general of the Dock Workers Union of Puerto Quetzal. A court acquitted Valiente on November 12, and the MP's Special Unit for Crimes against Trade Unionists and Journalists reportedly filed an appeal on December 2, but the appeals court had not made any decision on the matter at year's end. A second suspect wanted in the case, Dremler Fuentes, remained at large.

There were no known developments in the following cases from 2007: the killings of street vendors Walter Anibal Ixcaquic Mendoza and Norma Sente de Ixcaquic, members of the Sixth Avenue Union of the National Front of Vendors of Guatemala and the killing of Marco Tulio Ramirez Portela, a SITRABI leader and brother of the SITRABI secretary general.

Workers have the right to strike but by law must have the support of 51 percent of a company's workforce. Due to the low level of unionization and such procedural hurdles, there was only one legal strike during the year, according to the judicial branch's statistical department. However, teachers, health-care workers, farm workers, and other labor groups organized and participated in various protests, marches, and demonstrations throughout the year.

The law empowers the president and cabinet to suspend any strike deemed "gravely prejudicial to the country's essential activities and public services." Workers in such essential services and public services sectors may address grievances by means of mediation and arbitration through the Ministry of Labor's General Inspectorate of Labor and also directly through the labor courts. Employers may suspend or fire workers for absence without leave if authorities have not recognized a strike as legal. The law calls for binding arbitration if no agreement is reached

after 30 days of negotiation. The law prohibits employer retaliation against strikers engaged in legal strikes.

Organized labor protested the use of national-security and emergency-situation arguments by the government to enjoin what organized labor considered "legal" strikes. It also criticized arrests, incarcerations, and fines imposed against protesters, regarding such actions as violations of ILO conventions on the right to strike. The ITUC annual report noted that "essential services" was more broadly interpreted than the ILO believed warranted, thus denying the right to strike to a large number of public workers (such as those working in education; postal services; transport; and energy production, transport, and distribution).

The annual ITUC report found insufficient labor inspections, a weak judicial system, and impunity. The survey reported that, according to workers, the inspectors were more likely to persuade them to renounce their rights than seek to protect them and often gave employers advance warning of their visits. The labor courts had a backlog of applications for the reinstatement of workers, and cases could last more than 10 years. Employers tended to ignore court rulings, and courts did not take action to ensure that their decisions were respected. The February ILO technical assistance mission expressed concern regarding the will to resolve obstacles to freedom of association and noted that issues of impunity, judicial system effectiveness, and implementation of freedom of association needed priority attention.

*b. The Right to Organize and Bargain Collectively.*—The law provides the right to organize and allows unions to bargain collectively. The government sought to protect this right in actuality but had limited means to do so. The law requires that union members approve a collective bargaining agreement by simple majority; however, the small number of unionized workers and restrictions on union formation limited the practice of collective bargaining. In particular, formation restrictions effectively eliminated the possibility for workers to exercise their rights to negotiate and engage employers formally at an industry level.

According to the law, a factory or business owner is not obligated to negotiate a collective bargaining agreement unless at least 25 percent of the total number of workers in that factory or business are union members and request negotiations. Most workers, including those organized in trade unions, did not have collective contracts documenting their wages and working conditions, nor did they have individual contracts as required by law. This was largely due to the combination of employer-supported unions, illegal terminations or layoffs of union members, refusal to honor court reinstatement orders or rulings requiring the employer to negotiate with recognized unions, and threats and manipulations of subcontracted workers (i.e., threats not to renew a contract or offer permanent employment if the worker joins a union or refuses to disaffiliate).

Although the law stipulates that trade unions have an exclusive right to negotiate work conditions on behalf of workers, unions asserted that management promoted solidarity associations to discourage the formation of trade unions or to compete with existing labor unions.

The Ministry of Labor reported that there were 36 new collective bargaining agreements, including agreements reached with teachers and health-care workers unions, during the year. These agreements were reached after years of negotiations and after numerous teachers' demonstrations throughout the country.

The COE referred in its annual report to long-standing problems related to the failure to comply with orders to reinstate dismissed trade unionists; the slowness and ineffectiveness of procedures to impose penalties for breaches of labor legislation; and the need to promote collective bargaining, especially in export processing zones.

The law prohibits antiunion discrimination and employer interference in union activities, but enforcement of these provisions—in particular, legal prohibitions on retaliation for forming unions and for participating in trade union activities—was weak. Many employers routinely sought to circumvent legal provisions for union organizing by resisting union formation attempts or by ignoring judicial orders to enforce them. Inadequate penalties for violations and an ineffective legal system to enforce sanctions continued to undermine the right to bargain collectively and participate in trade union activities. An additional factor was the 2004 Constitutional Court ruling that the Ministry of Labor does not have the authority to impose sanctions for labor law violations.

Local unions reported increased incidences of fraudulent bankruptcies, ownership substitution, and reregistration of companies by employers seeking to circumvent legal obligations to recognize newly formed or established unions. Government institutions continued to tolerate these practices. The delay in processing legal complaints, from submission to final resolution, resulted in immunity for employers.



There were credible reports of retaliation by employers against workers who tried to exercise their labor rights. Common practices included termination and harassment of workers who attempted to form workplace unions, creation of illegal company-supported unions to counter legally established unions, blacklisting of union organizers, threats of factory closures, refusal to permit labor inspectors to enter facilities to investigate worker complaints, and refusal to honor labor tribunal decisions in favor of workers, including reinstatement of wrongfully dismissed union organizers.

According to the ITUC, since January, 60 members of the Zaragoza municipal workers' union were dismissed for "forming a trade union organization." Their dismissal coincided with the appointment of new members of the municipal council.

The law requires employers to reinstate workers dismissed illegally for union-organizing activities. In practice employers often failed to comply with reinstatement orders. During the year workers who suffered illegal dismissal won 284 court injunctions ordering reinstatement. Appeals by employers, along with legal recourse such as reincorporation as a different entity, often prolonged reinstatement proceedings. The labor courts rarely dismissed frivolous cases or appeals, did not operate in a timely manner, and did not ensure enforcement of their decisions. According to Labor Ministry officials, authorities rarely sanctioned employers for ignoring legally binding court orders. Employers often failed to pay the full amount of legally required severances to workers.

Labor courts, not labor inspectors, have responsibility for sanctioning employers found violating labor laws. The labor courts received 8,606 cases from the Labor Inspectorate during the year. Court decisions favorable to workers, however, were rarely enforced due to frequent refusals by employers to honor the decisions. Management or persons hired by management reportedly continued to harass and make death threats against workers who did not accept employer dismissals or refused to forfeit their right to reinstatement.

There were no special laws or exemptions from regular labor laws in the 16 active export processing zones (EPZ) and within the garment factories that operated under an EPZ-like regime. Due to inadequate enforcement of labor laws and illegal measures often taken by employers to prevent new-union formation or undermine existing unions, there were few successes in organizing workers in EPZs and in the garment sector. Some factories closed and then reopened with a new name and new tax exemption status. Of the 216 companies operating in the EPZs, only two had recognized trade unions and none had collective bargaining agreements. The government did not regularly conduct labor inspections in the EPZs, and there were systemic violations of wage and hour laws, mandatory overtime at nonpremium pay, terminations of workers who tried to form unions, withholding of social security payments, and illegal pregnancy testing. The COE observations in 2008 identified as a problem the requirement of pregnancy tests in some workplaces as a condition to obtain and retain employment.

*c. Prohibition of Forced or Compulsory Labor.*—While the constitution and the law prohibit forced or compulsory labor, men, women, and children were trafficked within the country, for forced labor, particularly in agriculture. In the Mexican border area, children were exploited for forced begging on streets and labor on coffee plantations and in municipal dumps. Organized labor equated mandatory overtime practices, which were commonplace in the private sector, particularly in the export sectors, to forced or compulsory labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law bars employment of minors under the age of 14 without written permission from parents or the Ministry of Labor, child labor was a widespread problem. The law prohibits persons under the age of 18 from work where alcoholic beverages are served, in unhealthy or dangerous conditions, and at night or overtime. The legal workday for persons younger than 14 is six hours and, for persons 14 to 17 years of age, seven hours. Despite these protections, child laborers worked on average in excess of 45 hours per week.

The majority of child labor occurred in rural indigenous areas where economic necessity forced children to supplement family income. The informal and agricultural sectors regularly employed children below 14 years of age, usually in small family enterprises, and there were reports during the year that child labor existed in the production of broccoli, coffee, corn, fireworks, gravel, and sugar.

Children, primarily indigenous girls, worked as domestic servants vulnerable to physical and sexual abuse. Indigenous children also worked frequently in street sales, rubber and timber production, and as shoe shiners and bricklayer assistants. There were reports of forced child labor in municipal dumps and in street begging.

The Ministry of Labor's Child Worker Protection Unit is charged with enforcing restrictions on child labor and educating minors, their parents, and employers on the rights of minors in the labor market. The government did not effectively enforce laws governing the employment of minors, a situation exacerbated by the weakness of the labor-inspection and labor-court systems. While in exceptional cases the Labor Inspectorate may authorize children under the age of 14 to work, the Ministry of Labor has committed, in accordance with the applicable ILO convention, not to provide such authorizations. In keeping with this commitment, the Labor Inspectorate reported that it had not made such authorizations during the year.

The COE observations in March expressed deep concern about the situation of children under 14 years compelled to work in the country, noted that it appeared very difficult to apply in practice the national child labor legislation, and encouraged the government to step up efforts to improve the situation of child laborers under age 14.

The government devoted insufficient resources to prevention programs, but Guatemala City's municipal administration managed several small programs that offered scholarships and free meals to encourage families to send to school children who had formerly worked in the broccoli, coffee, gravel, and fireworks industries.

*e. Acceptable Conditions of Work.*—The law sets national minimum wages for agricultural and nonagricultural work and work in garment factories. On December 29, President Colom raised the daily minimum wage to 56 quetzales (\$6.86) per day for agricultural and nonagricultural work and 51.75 quetzales (\$6.34) per day for work in garment factories. The president raised the minimum wage through an executive order after a tripartite committee consisting of representatives from the government, unions, and the private sector failed to reach agreement on the annual increase, which has to be set by year's end.

The minimum wage did not provide a decent standard of living for a worker and family. The National Statistics Institute estimated that the minimum food budget for a family of five was 1,897.32 quetzales (\$232.54) per month, nearly 4 percent lower than in 2008. Labor representatives noted that even where both parents worked, the minimum wage did not allow a family to meet basic needs.

The Ministry of Labor conducted inspections to monitor compliance with minimum-wage law provisions, but the government allocated inadequate resources to enable inspectors to enforce the law adequately, especially in the very large informal sector. Noncompliance with minimum wage provisions in the informal sector was widespread. Advocacy groups focused on rural-sector matters estimated that more than half of the workers in rural areas who engaged in day-long employment did not receive the wages, benefits, and social security allocations required by law. According to credible estimates, between 65 and 75 percent of the workforce continued to work within the informal sector and outside the basic protections afforded by law.

The legal workweek is 48 hours with at least one paid 24-hour rest period, although in certain economic sectors workers continued to operate under a tradition of longer work hours. Daily and weekly maximum hour limits do not apply to domestic workers. Time-and-a-half pay is required for overtime work. Although the law prohibits excessive compulsory overtime, trade union leaders and human rights groups charged that employers forced workers to work overtime without legally mandated premium pay. Management often manipulated employer-provided transportation to force employees to work overtime, especially in EPZs located in isolated areas with limited transportation alternatives. Labor inspectors reported uncovering numerous instances of overtime abuses, but effective enforcement was undermined due to inadequate fines, labor-court inefficiencies, and employer refusals to permit labor inspectors into facilities or provide access to payroll records and other documentation. Moreover, labor inspectors were not empowered to adopt administrative measures or to impose fines, but had to send alleged violations to the labor courts, where decisions favorable to workers were rarely enforced.

The Ministry of Labor operated a call center that received 44,767 labor complaints or requests for information and advice during the year. Local unions continued to highlight and protest violations by employers who failed to pay employer and employee contributions to the national social security system despite employee contribution deductions from workers' paychecks. These violations, particularly common in the private sector and export industries, resulted in limiting or denying employees access to the public health-care system and reducing or underpaying workers' pension benefits during their retirement years.

The government sets occupational health and safety standards, which were inadequate and poorly enforced. When serious or fatal industrial accidents occurred, the authorities often failed to investigate fully or assign responsibility for negligence. Employers rarely were sanctioned for failing to provide a safe workplace. Legislation requiring companies with more than 50 employees to provide onsite medical facili-

ties for their workers was not enforced. Workers have the legal right to remove themselves from dangerous work situations without reprisal. Few workers, however, were willing to jeopardize their jobs by complaining about unsafe working conditions.

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## GUYANA

The Co-operative Republic of Guyana is a multiparty democracy with a population of approximately 760,000. President Bharrat Jagdeo was reelected to a second full term in 2006 elections considered generally free and fair by international observers. President Jagdeo's People's Progressive Party Civic (PPP/C) has been the majority party in Parliament since 1992. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in some areas. The most significant reported abuses included killings by police, torture and mistreatment of suspects and detainees by security forces, poor prison and jail conditions, and lengthy pretrial detention. Other problems included government corruption and sexual and domestic violence against women and abuse of minors.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the government or its agents committed arbitrary killings; however, security forces committed unlawful killings. The Police Complaints Authority (PCA) received four complaints of unlawful killings compared with eight the previous year. In most cases the police reportedly shot the victims while attempting to make an arrest or while a crime was being committed.

On April 12, a 19-year-old man died at the Georgetown Public Hospital Corporation after being shot in the head by an off-duty member of the Presidential Guard following what police said was a robbery. The file went to the PCA in December, but no evidence was brought forward to contradict the police account of the circumstances. At year's end authorities had filed the case with the Office of the Director of Public Prosecutions (DPP).

On August 24, three on-duty members of the Coast Guard, Sherwyn Harte, Delon Gordon, and Deon Greenidge, were charged with murder in the August 20 strangling of businessman Dweive Kant Ramdass; three of their relatives were charged for being accessories in the crime, which took place in the course of a robbery. On September 17, an army board of inquiry found that the coast guardsmen confessed that they were responsible for the abduction and robbery.

Concerning the July 2008 manslaughter case against prison officials Kurt Corbin and Gladwin Samuels, the Magistrate's Court began the Preliminary Inquiry (PI), which was scheduled for a ruling in January 2010.

The police investigation into the July 2008 death of prison inmate Nolan Noble from blunt-force trauma to the head, and the October 2008 Brickdam Police Station death from multiple injuries of James Nelson, did not result in the filing of any charges nor any request to commence an inquest.

In the January 2008 case of extreme violence in Lusignan, authorities in September 2008 charged Mark Williams, Dwane Williams, and James Hiles, and at year's ending the case remained pending.

In the February 2008 case of extreme violence in Bartica, authorities on May 13 charged five persons: Mark Williams, Dennis Williams, Clebert Reece, Michael Caesar, and Roger Simon. The preliminary investigation has been heard, and at year's end the case remained pending at the Bartica Magistrate's Court.

A coroner's inquest into the 2007 killing of Donna Herod completed on August 4 found insufficient evidence to determine responsibility for the death.

On April 16, a court sentenced police officer Clement Bailey to four years' imprisonment for the 2007 killing of Clifton Garraway. Bailey pleaded guilty to the lesser charge of manslaughter.

*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 however there were numerous allegations that prison officers tortured inmates. There were also allegations of police abuse of suspects and detainees.

During the year the PCA received 78 complaints of unlawful arrest and 46 complaints of unnecessary use of violence.

During a cocaine raid on March 3 in Wakenaam, police allegedly abused two individuals. Mitchell Thomas, a farm hand, was placed in a huge ants' nest by members of the Joint Services and left there for several minutes while the insects bit him. Ryan Gordon, 17, was beaten by the same persons and later gave a detailed testimony to the police to facilitate a full-scale investigation; however, there was no known information regarding an investigation.

On March 15, police shot 19-year-old Ryan Hescott, wounding him in the right arm during a raid. The police claimed that Hescott fired at them.

Following a July 17 arson attack on the Ministry of Health, police arrested and allegedly beat a number of suspects before determining whether the individuals committed a crime. Local media reported several cases of random police brutality, arrest, and interrogation prior to investigation.

On October 27, authorities charged three police officers involved in abusing three individuals in related cases.

Two police officers tortured a 14-year-old murder suspect, Twyon Thomas, dousing him with alcohol and setting his genitals on fire during an investigation of the killing of a former government official. Thomas was also struck on the ears and head with a piece of wood and beaten with a baton. On November 30, Sergeant Narine Lall and Constable Mohanram Dolai were charged for unlawfully and maliciously wounding Thomas with intent to maim, disfigure, or cause grievous bodily harm. Both individuals were granted bail, and the case continued at year's end. On December 8, the Ministry of Home Affairs (MoHA) released a police report that confirmed the allegations of torture associated with this case.

The two officers were also charged on November 4 with abusing two other suspects in the same case, Mohanram Dolai and Nouravie Wilfred. A third officer, Corporal Oswald Foo, was also charged in the Rafick case. They reportedly used a piece of wood to strike a suspect on the back and legs. One suspect was forced to sign a confession and was held in prison from October 26 until December 2, two weeks after the DPP had ordered his release. The other suspect was released without any charges being filed.

On November 2, a policeman allegedly sexually harassed and attempted to rape a Brazilian woman who reported a stolen passport. Her husband reported the matter to the police, and the officer was in custody at year's end.

On December 2, authorities remanded police constable Gavin Holder to prison for allegedly indecently assaulting over a six-day period a 15-year-old girl who was in police custody. On December 1, authorities also charged police constable Gary Verwayne for the same offense. Hearings in both cases were scheduled for the Springland Magistrate's Court in January 2010. On December 23, authorities arrested police constable Colin Jonas and an accomplice for robbing a businessman of cash and jewelry worth GYD 500,000 (\$2,500) at his shop in Crabwood Creek. The suspects were granted GYD 300,000 (\$1,500) bail on December 29 pending a court hearing in early 2010.

*Prison and Detention Center Conditions.*—Prison and jail conditions were poor and deteriorating, particularly in police holding cells. Capacity and resource constraints were a problem. The Prison Authority reported that at the end of September there were 1,989 prisoners in five facilities, which had a design capacity of 1,580. More than half of the prisoners were in Georgetown's Camp Street Prison, which was designed to hold 600 inmates but held 1,053. Overcrowding was in large part due to backlogs of pretrial detainees, which constituted approximately 43 percent of the total prison population. Unlike in preceding years, each prison had an assigned medic, and doctors visited on assigned hours.

There were three reported cases of death in prisons due to neglect or prison official abuse.

All newly hired prison guards received limited human rights training from the Guyana Human Rights Association (GHRA), but the government made no provision for reinforcement training beyond this initial stage.

Although funding and plans were approved for rehabilitation of the Brickdam facility lock-ups, overall these conditions remained worse than those in the prisons. Visitors described the facility as dark, malodorous, unhygienic, and crowded, and it had no medical attention available to detainees. Meals normally were inadequate; friends and relatives routinely had to bring detainees food and water. Although pre-trial jails were intended to serve only as pre-trial holding areas, some suspects were detained there as long as two years, awaiting judicial action on their cases.

Juvenile offenders 16 years of age and older were held with the adult prison population. Juvenile offenders ages 15 and younger were held in the New Opportunity Corp (NOC), a juvenile correctional center that offered primary education, voca-

tional training, and basic medical care. Problems at the NOC included lax security and understaffing. There were complaints that juvenile runaways, or those out of their guardians' care, were placed with juveniles who had committed crimes, with the result that some petty offenders became involved in more serious criminal activity.

Unlike in preceding years, no women were held in the same facilities as men. The Prison Authority reported that there were 88 female inmates in the women's prison located in New Amsterdam. Due to inadequate facilities, juvenile female pretrial detainees were sometimes held with adult female pretrial detainees.

The Prison Authority offered rehabilitation programs focused on vocational training and education; however, such programs did not adequately address the needs of prisoners with substance abuse problems.

On March 13, prison officers allegedly beat and fractured the left foot of Camp Street Prison inmate Roscio Mercurius, after he was caught in a drug-smuggling operation in which a prison official was arrested for smuggling marijuana into the facility.

On March 24, prison officers allegedly beat Camp Street Prison inmate Suruj Narine Singh severely. There were other unconfirmed allegations of officers beating prisoners and then refusing to take them to Georgetown Hospital for medical attention, for fear that their actions would be exposed.

On August 3, a court found a Guyana Police Force (GPF) officer guilty of failing to follow procedures in the case of inmate Ramesh Sawh's suicide in January 2008. However, in November the director of public prosecutions concluded that there was no evidence to charge the police officer in the death.

Unlike in the preceding year, there was no indication that the government declined to permit independent monitoring of prison conditions, but there were no known monitoring visits during the year.

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

*Role of the Police and Security Apparatus.*—The GPF, which is headed by the commissioner of police and overseen by the MoHA, employed 2,884 officers and is responsible for maintaining internal security. The GDF's duties include: defending the country's territorial integrity, assisting civil authorities to maintain law and order, and contributing to economic development. The GDF, headed by the Chief of Staff, consisted of approximately 3,000 troops; it falls under the purview of the Defense Board, which the president chairs.

Poor training, poor equipment, and acute budgetary constraints severely limited the effectiveness of the GPF. Public confidence in and cooperation with the police remained low. There were reports of corruption in the force. Most cases involving charges against police officers were heard by lower magistrates' courts, where specially trained police officers served as the prosecutors. On August 31, three policemen were charged with larceny by public officers on charges of stealing money retrieved from suspects held for robbery and murder of Dweive Kant Ramdass.

Following public outcry over police brutality in an October 31 case in which two police officers tortured a 14-year-old boy (see section 1.c.), several staff changes occurred within police ranks. Assistant Police Commissioner Paulette Morrison, who commanded the police Division on the West Coast Demerara where the officers in question engaged in torture, was transferred to another division resulting in changes among other police divisional heads. In the reshuffle, Assistant Police Commissioner Steve Merai, who once headed the "Black Clothes" police squad responsible for several extrajudicial killings, became commander of Division B.

Shifting local police staff from one division to another without prosecuting perpetrators of abuse heightened public anger over police brutality and impunity. Although Home Affairs Minister Clement Rohee acknowledged that the fault rested with the members of the GPF, neither the two police detectives charged with torture nor their supervisors were obliged to resign. They were, however, suspended from duty pending the outcome of the criminal charges. Members of the opposition party and local media called for the removal of Police Commissioner Henry Green and for the government to investigate and prosecute individuals connected to cases of police brutality.

The PCA's efforts to conduct impartial and transparent assessment of the accusations it received were obstructed by staff shortages (five of eight full-time positions were filled), as well as the lack of an investigative unit. By law the police commissioner must comply with the PCA's recommendations on complaints, but the PCA relied on the GPF to conduct investigations into complaints against its own officers. Long delays in receiving reports from the commissioner also thwarted the complaints process.

The PCA received 364 written and oral complaints, 42 of which were sent from the Commissioner of Police. Four of the complaints involved police killings, while the others were mostly for police neglect of duties or misconduct in public places, unlawful arrest, illegal search, corrupt transactions, and unnecessary use of force. At year's end an investigation had been concluded in 264 of the complaints by the GPF Office of Professional Responsibility, while 100 awaited final determination.

The GDF provided human rights training for 239 officers during the year.

*Arrest Procedures and Treatment While in Detention.*—An arrest requires a warrant issued by a court official, unless an officer who witnesses a crime believes 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 72 hours be brought before a court to be charged; authorities generally observed this requirement in practice. However, in October during a notorious investigation of a killing, authorities held a 20-year-old suspect seven days without permitting him to see family or legal representatives or to receive medical attention.

Bail was generally available except in cases of capital offense and narcotics trafficking.

Although the law provides criminal detainees prompt access to a lawyer of their choice and to family members, in practice these rights were not fully respected. The state provides legal counsel for indigent persons only when such persons are charged with a capital offense. However, the Legal Aid Clinic provides legal counsel at a reduced fee in certain circumstances, as determined by the Clinic. Police routinely required permission from the senior investigating officer, who was seldom on the premises, before permitting counsel access to a client.

Lengthy pretrial detention, due primarily to judicial inefficiency, staff shortages, and cumbersome legal procedures, remained a problem. The average length of pretrial detention four months to three years for those awaiting trial at a magistrate's court and two years for those awaiting trial in the High Court.

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

Delays and inefficiencies undermined judicial due process. Delays in judicial proceedings were caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional allegations of bribery, poor tracking of cases, and the slowness of police in preparing cases for trial.

The court system is composed of several magistrates' courts, the High Court, and the Court of Appeal. There is also the right of final appeal to the Caribbean Court of Justice. The magistrates' courts handle both criminal and civil matters. Specially trained police officers serve as prosecutors in lower magistrates' courts. The DPP is statutorily independent, may file legal charges against offenders, and handles all criminal cases.

The Judicial Services Commission (JSC) has the authority to appoint judges, determine tenure, and appoint the DPP director and deputy director. The president, on the advice of the JSC, may temporarily appoint judges to sit on magistrates' courts and on the High Court. There were ten sitting High Court justices, including the Chief Justice; 20 magistrates; and three judges on the Court of Appeal. The chief justice and the chancellor of the judiciary were serving in acting capacities.

*Trial Procedures.*—Trials are public, and defendants enjoy a presumption of innocence. Cases in magistrates' courts are tried without jury; more serious cases are tried by jury in the High Court. Defendants can confront witnesses against them and have access to relevant government-held evidence. Defendants have the right to appeal. Trial postponements were granted routinely to both the defense and the prosecution. The law extends these rights to all citizens.

The law recognizes the right to legal counsel; however, except in cases involving capital crimes, it was limited to those who could afford to pay. Although there is no public defender system, a defendant in a murder case that reaches the High Court receives a court-appointed attorney. The Georgetown Legal Aid Clinic, with government and private support, provided advice to persons who could not afford a lawyer, particularly victims of domestic violence and violence against women.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

The case of former GDF officer Oliver Hinckson, whose indictment in 2008 for sedition some observers claimed was politically motivated, was scheduled for court hearing at the Georgetown magistrate's court in February 2010.

*Civil Judicial Procedures and Remedies.*—The law provides for an independent and impartial judiciary in civil matters, and the government generally respected this provision in practice. The magistrates' courts deal with both criminal and civil

matters. Delays, inefficiencies, and corruption in the magistrate court system affected the ability of citizens to seek timely remedy in civil matters, and there was a large backlog of civil cases.

On March 8, the Executive Committee of the GHRA reported that figures released earlier in the year indicated “an average of 1,000 new cases per month being introduced to the court system, all of which are handled by nine permanent, four contracted, and four temporary magistrates, along with the backlog of cases accumulated over years.” On March 23, the National Assembly passed a judicial decisions bill that specifies time limits for a judge to issue a decision after evidence is given in civil proceedings. The president assented on August 14, effectively making this bill a law.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits searches without warrants, and the government generally respected this, but there was one report of police officers searching a home without a warrant. On May 22, two men said that they were badly beaten by joint services members at their home in Linden, arrested, and then released. A police press release stated that the men were in custody, assisting with investigations into the discovery of an unlicensed 12-gauge shotgun and marijuana at a house in the area, but the men said that the police knocked down their door and beat them before identifying themselves.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice; however, the government demonstrated diminishing tolerance for publicly expressed views or opinions different from its own.

The independent media were active and expressed a wide variety of views without restriction. International media operated freely. The partially government-owned daily newspaper, the Guyana Chronicle, which typically displayed a progovernment slant, covered a broad spectrum of political and nongovernmental groups. The independent daily newspapers, Stabroek News and Kaieteur News, freely reported and editorialized on the government’s policies and actions.

On March 2, CNS TV 6 dropped a minority political party’s TV program, AFC on the Move, from its scheduled programming in the interest of not causing public unrest. According to the party chairman, a government official called CNS 6 and threatened the owner of the station, stating that if the program were broadcast, the owner would be charged with libel.

On October 14, in a case filed by a local television operator, the Court of Appeal ruled that the government had an unlawful monopoly on the airwaves and that the National Frequency Management Unit (NFMU) was not adequately considering radio license applications. All radio stations that operate on the electromagnetic spectrum are government-controlled.

On October 29, authorities arrested anti-PPP/C activist Mark Benschop for interfering with a search of his residence by police and officials from the NFMU. During the incident, NFMU officials seized FM radio broadcast equipment from Benschop’s residence, alleging that Benschop had begun transmitting illegally. Government intimations that Benschop was linked to the July 17 Ministry of Health fire and other alleged “terrorist” acts were not substantiated, and Benschop was released from jail on November 2. The government’s monopoly on radio broadcasting, although ruled illegal by the Court of Appeal, continued, limiting the expression of opposition views.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that there were an estimated 27 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

On September 2, MoHA officials briefly detained approximately 40 foreign missionaries of The Church of Jesus Christ of Latter-Day Saints (Mormons). Prior to their detention, the missionaries received an official notice requiring them to appear before a court of law for a hearing on their immigration status. Before this hearing

could take place, however, they were detained and ordered to depart. After President Jagdeo was informed of the situation via diplomatic channels, he instructed the Mormons to depart the country within one month, which they did. The news media reported that the government was wary of the church's independent charity work in the interior and of the missionaries' alleged close relationship with opposition figures.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small, perhaps fewer than 10 members.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The Amerindian Act requires that the local village council grant permission for travel to Amerindian areas. In practice most persons traveled throughout these areas without a permit.

The law prohibits forced exile, and the government did not use it.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government did not receive any petitions to grant refugee status or asylum.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair national elections based on universal suffrage. However, local government elections, which the law provides should be held every three years, have not been carried out since 1994. On December 10, the Local Authorities (Elections) Amendment Bill was passed in the National Assembly, which extended to December 1, 2010, the date by which elections can be held. Political parties operated without restrictions or outside interference.

*Elections and Political Participation.*—The most recent elections took place in 2006, when citizens voted in a generally free election to keep the PPP/C government in office. Incumbent President Bharrat Jagdeo was reelected to a five-year term. International observers, including teams from the Organization of American States, the Caribbean Community, the Carter Center, and the Commonwealth, noted isolated irregularities not sufficient to change the outcome, declared the election to be substantially free and fair, but noted that ruling party use of government resources during the campaign disadvantaged opposition parties.

On September 2, a new hearing in the High Court began as the Elections Commission and the ruling PPP/C party continued to challenge the minority Alliance for Change (AFC) party's 2006 claim that incorrect vote counting in Region 10 in the national elections had wrongly awarded a seat to the PPP/C that should have gone to the AFC. As of December 31, the matter has been heard by the Chief Justice and reserved for decision.

The constitution requires that one-third of each party list of candidates be female but does not require the parties to select women for seats. There were 20 women in the 65-seat National Assembly; five of 21 cabinet ministers were women.

While supporters of the two major parties (the PPP/C and the People's National Congress/Reform) were drawn largely from the Indo-Guyanese and Afro-Guyanese communities, respectively, political party leadership was more diverse. The ethnically diverse National Assembly included three indigenous members. The cabinet was also ethnically diverse, mirroring the ethnic makeup of the general population. More than 20 percent of the 21 cabinet ministers were Afro-Guyanese, including the prime minister and the head of the presidential secretariat; there were also two Amerindian cabinet ministers.

### *Section 4. Official Corruption and Government Transparency*

The law provides for criminal penalties for official corruption; however, the government did not implement the law effectively. The World Bank's worldwide govern-



ance indicators reflected that government corruption was a serious problem. There was a widespread public perception of serious corruption in the government, including law enforcement and the judicial system. Low-wage public servants were easy targets for bribery.

Public officials are subject to financial disclosure laws and are required to submit information about personal assets to the Integrity Commission, but compliance was uneven and the commission had no resources for enforcement or investigations.

The law does not provide for public access to government information. Government officials were generally reluctant to provide public information without approval from senior administration officials.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The UN Human Rights Council's independent expert on minority issues visited the country from July 28 to August 1, 2008. The government stated that the expert failed to incorporate its views adequately into her report and that she misled officials about the nature of her mission. The government submitted an official response to the Human Rights Council, registering its profound concern about the report and the independent expert's conclusions. The government also questioned the independent expert's focus on the Afro-Guyanese community and the exclusion of other minorities in her report.

A few domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often uncooperative and unresponsive to their views; when they did respond, it was generally to criticize.

The constitution allows for a governmental human rights commission, but it has yet to be established.

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

While the constitution provides fundamental rights for all persons regardless of race, gender, religion, or national origin, the government did not always enforce these provisions.

*Women.*—Rape and incest are illegal but were neither frequently reported nor prosecuted; spousal rape is not illegal, which contributed to an atmosphere where victims were often reluctant to report incidents. A person who commits spousal rape may instead be charged with causing grievous bodily harm or aiding and abetting.

If a case does come to trial, a judge has discretion to issue a sentence of any length in a rape conviction, depending upon the circumstances and severity of the act committed. The apparent norm appeared to be a sentence of five to 10 years' imprisonment. Sixty persons were charged with rape during the year, and 15 persons were convicted of rape (a figure that includes persons charged in preceding years). Additionally, 254 persons were charged with statutory rape during the year, and 22 persons were convicted of statutory rape (including persons charged in preceding years).

Violence against women, including domestic violence, was widespread and crossed racial and socioeconomic lines. The law prohibits domestic violence, gives women the right to seek prompt protection, and allows victims to seek protection, occupation, or tenancy orders from a magistrate. Penalties for violation of protection orders include fines up to GYD \$10,000 (\$50) and 12 months' imprisonment; however, this legislation frequently was not enforced.

According to the NGO Help and Shelter, the GPF received Inter-American Development Bank funds to refurbish all police units, which are required to include domestic violence units where victims can be counseled in private. The group noted discrepancies in police training for domestic violence, with some divisions actively involved in training, while others remained unfamiliar with the basic violence protection order.

Help and Shelter handled 471 cases of abuse and violence, including child, spousal, nonspousal, and other domestic abuse; 254 of the cases involved spousal abuse directed against women. Help and Shelter ran a free shelter for victims of domestic violence and operated a hotline to counsel victims with the funds it received from both private donors and the government. During the year Help and Shelter conducted 20 workshops and 321 awareness sessions in sensitizing individuals about domestic violence, and 1,049 persons were counseled for domestic abuse or violence.

Prostitution is illegal but present. It continued to receive greater public attention due to the high incidence of HIV/AIDS among prostitutes.

Sexual harassment is prohibited under the Prevention of Discrimination Act, which provides for monetary penalties and award of damages to victims, but its application is confined to the workplace. Harassment in schools, for instance, is not

covered under the law. Any act of sexual harassment involving physical assault can also be prosecuted under relevant criminal statutes. Although reports of sexual harassment were common, there were no prosecutions for sexual harassment under the Prevention of Discrimination Act, and charges of sexual harassment were often settled out of court.

The Guyana Responsible Parenthood Association (GRPA) was established in 1973. It collaborates closely with the Ministry of Health's Maternal and Child Health Department to lecture on safe parenthood. GRPA has offered contraceptive services at its headquarters and government clinics since the early 1980s.

Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. Access to contraception, and skilled attendance at delivery and in postpartum care were widely available. The UN Children's Fund reported that 83 percent of births had a skilled attendant. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections, including HIV/AIDS.

The law prohibits discrimination based on gender, but there was no legal protection against such discrimination in the workplace. Although women constituted a significant proportion of the workforce, there were credible reports that they were not equally treated and faced disadvantages in promotion. Job vacancy notices routinely specified that the employer sought only male or only female applicants. The Women's Affairs Bureau of the Ministry of Labor monitored the legal rights of women, but its role was limited to employment-related services. The bureau also held seminars on leadership and gender equity issues for women throughout the country. The constitution provides for a Women and Gender Equality Commission, but implementing legislation has not been passed.

The law protects women's property rights in common-law marriages. It entitles a woman who separates or divorces to one-half of the couple's property if she had regular employment during the marriage and one-third of the property if she had not been employed.

*Children.*—Citizenship is derived by birth within the country's territory or by birth to a Guyanese citizen abroad.

Reports of physical and sexual abuse of children were common. During the year Help and Shelter handled 66 cases of child abuse, and 76 child abuse cases were filed with the courts.

Law enforcement officials and NGOs believed that the vast majority of child rape and criminal child abuse cases were not reported. As with cases of domestic abuse, NGOs noted reports that some police officers and magistrates could be bribed to make cases of child abuse "go away."

On July 29, the government established the Child Care and Protection Agency. Legislation states that the agency has the power to implement policies and decisions in relation to the laws governing children, to monitor childcare facilities, to intervene in cases of child abuse or neglect, and to protect vulnerable children. The agency launched a hotline in November to which anyone who suspects someone of abusing or harming a child may place a call.

The age of sexual consent is 16. Under the law anyone who has sexual relations with a girl under 16 can be found guilty of a felony and imprisoned for life. There were unconfirmed reports of child prostitution, although there were no indications that the country is a destination for child sex tourism.

There is no legal prohibition of child pornography. However, Section 350 of the Criminal Law Offences Act regulates selling, publishing, or exhibiting obscene material, defined as anything that could deprive or corrupt those open to immoral influences.

*Trafficking in Persons.*—The law prohibits all forms of trafficking in persons, and five such cases were filed with the courts during the year.

The Ministerial Task Force on Trafficking in Persons reported that there were two reports of persons presumed to be trafficked in 2008, and two persons were charged early in January for human trafficking. The preliminary inquiry has begun and was set for continuation in February 2010 at the Albion Magistrate's Court.

Penalties for trafficking include three years' to life imprisonment, forfeiture of property, and full restitution to the victims. There were no convictions under the Trafficking in Persons Act during the year. Prosecution of human traffickers was more difficult in the interior, where infrequent court sessions delayed prosecution of cases. There is a National Plan of Action to combat human trafficking as well as a National Task Force for Combating Trafficking in Persons, which meets to address anti-trafficking issues and consists of multiple government agencies. The MoHA chaired the task force and monitored enforcement.

There was no evidence that government officials or institutions participated in or condoned human trafficking.

There were no reports of societal discrimination against trafficking victims. The government also worked closely with, and provided some financial support for, the NGOs Help and Shelter and Red Thread, although neither reported any trafficking victims during the year.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The constitution mandates the state to “take legislative and other measures designed to protect disadvantaged persons and persons with disabilities”; however, there is no law allowing such persons to contest discriminatory acts. There is also no law mandating provision of access for persons with disabilities, and the lack of appropriate infrastructure to provide access to both public and private facilities makes it difficult for persons with disabilities to be employed outside their homes. The National Commission on Disabilities, comprising 15 cabinet-appointed members, is charged with advising the government and acting as a coordinating body on issues affecting persons with disabilities. The Open Door Center offered assistance and training to persons with disabilities throughout the year.

*Indigenous People.*—According to the 2002 census, the indigenous population constituted 9 percent of the population. There were nine tribal groups, and 90 percent of indigenous communities were located in the remote interior. Their standard of living was lower than that of most citizens, and they had limited ability to participate in decisions affecting their lands, cultures, traditions, and allocation of natural resources. Indigenous communities had limited access to education and health care. All indigenous communities had primary schools, and there were 10 secondary schools in remote regions. The secondary schools had dormitories that housed approximately 1,400 students at government expense. Government programs trained health workers, who staffed rudimentary health facilities in most communities.

By law persons wishing to enter indigenous lands must obtain prior permission from the local village council, but most visitors traveled in these areas without a permit. Rules enacted by the village council require approval from the minister of Amerindian affairs before entering into force.

Since passage of the Amerindian Act of 2006, the government has increased the number of communal land titles for Indigenous communities from 74 to 96, more than doubling the area from 6.5 percent of the national territory to 14 percent. A total of 134 communities now have collective land titles, and approximately five communities remained without collective land rights.

To earn cash, some villages contracted with loggers, sawmillers, and miners to exploit timber and other natural resources on their land. These generally were unequal exchanges benefitting the contractors more than the communities.

Some indigenous groups and others perceived President Jagdeo's Low Carbon Development Strategy (LCDS) as another government “land grab.” The Jagdeo administration conducted consultations with several indigenous communities on the LCDS, but many objective observers described the sessions as one-way presentations by government officials. The LCDS stated that indigenous communities with legal title to their lands may opt in.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Sodomy is punishable with a maximum sentence of life in prison. There are no laws concerning female-to-female sex. On September 18, Health Minister Leslie Ramsammy publicly called for a Caribbean-wide discussion on the laws, stating that “many homosexuals suffer because of the stigma and discrimination attached” to their sexual orientation.

Between February 6 and 10, police arrested at least eight transgendered persons, detaining them without reading them their rights, informing them of their charges, or allowing them to contact a lawyer. The acting chief magistrate ordered each of the men to pay a court fine of GYD \$7,500 (\$37) and told them they were “confused” about their sexuality and gender, stating “It's a curse on the family.” There was no official response to the comments.

*Other Societal Violence or Discrimination.*—Violence and discrimination against persons with HIV/AIDS were not widely reported.

#### *Section 7. 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, and workers exercised this right in practice. The constitution bars GPF members from

unionizing or associating with any established union. According to a Bank of Guyana report, in 2007 approximately 20 percent of the work force was unionized.

The law provides workers with the right to strike, and workers exercised this right in practice. Strikes may be declared illegal if the union leadership did not approve them or if they did not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeleton staff in place, but they are required to engage in compulsory arbitration to bring an end to a strike. The law defines and places limits on the retaliatory actions employers may take against strikers. The law does not define or limit retaliation against strikers, which is an issue settled between strikers and employers by the terms of resumption after a strike.

On December 2, following a two-week strike, the predominantly Russian-owned Bauxite Company of Guyana Inc. sent a letter to derecognize the union to the president of the Guyana Bauxite and General Workers Union, which represents nearly all 500 of the company's workers. The letter was sent shortly before the two sides were due for negotiations mediated by the Chief Labour Officer of the Ministry of Labour, Human Services and Social Security. Workers said the letter was a total disregard for the collective labor agreement and the laws. At year's end the strike had ended; 80 employees were fired, and the company no longer deducted union dues from employees who were rehired. Tensions remained between the union and the mine.

*b. The Right to Organize and Bargain Collectively.*—Public and private sector employees possessed and exercised the right to organize and to bargain collectively. Ten collective bargaining agreements were signed in the first three quarters of the year. The Ministry of Labor is required to certify all collective bargaining agreements, and there were no reports that it refused to certify any specific agreement. Individual unions directly negotiate collective bargaining status. The chief labor officer and the staff of the Ministry of Labor provided consultation, enforcement, and conciliation services.

The law prohibits antiunion discrimination by employers; however, some unions alleged antiunion discrimination by the government. A July 8 report by the International Trade Union Confederation found that trade union rights were violated and that the government did not effectively enforce its laws. The report found that freedom of association and the rights to organize, bargain collectively, and strike were recognized in law but not in practice.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law sets minimum age requirements for employment of children, child labor in the informal sector was a problem. The law prohibits the employment of children younger than 15 with some exceptions. Children age 14 may be employed in technical schools, provided such work is approved and supervised by the public authority. No person under 16 may be employed at night, except under regulated circumstances. The law permits children under 16 to be employed only in enterprises in which members of the same family are employed. The government was committed to prosecute anyone found employing a child for wages, especially during school hours. By October 10, Ministry of Labor inspections of 3,386 worksites (out of a planned 4,000 for the year) had revealed no child labor violations. In September the Ministries of Labour and Education launched the Tackling Child Labor through Education program (TACKLE) program with the International Labor Organization and the EU.

Child labor was most prevalent in family-based businesses, farming, bars and restaurants, domestic work, and street vending. Small numbers of children performed hazardous work in the construction, logging, farming, fishing, manufacturing industries, and small-scale traditional mining. There are three times more children in the interior than in the coastal urban areas.

The Ministry of Labor collaborated with the Ministry of Education and the GFP to enforce child labor laws. The Ministry of Labor employed 20 labor inspectors who were charged with investigating child and exploitative labor activities; however, these were not sufficient to effectively enforce existing laws.

*e. Acceptable Conditions of Work.*—The minimum public sector wage was GYD \$34,055 (\$170) per month. There were minimum wages for certain categories of private sector workers, including retail cashiers and clerks, printers, drivers, and conductors, starting with a minimum of GYD 4,120 (\$20) per week. Although enforcement mechanisms exist, it was difficult to put them into practice, and unorganized workers, particularly women and children in the informal sector, often were paid

less than the service sector legal minimum wage. Laborers and untrained teachers at public schools also were paid less than the minimum wage. The legal minimum wage did not provide a decent standard of living for a worker and family.

The law sets hours of employment, which vary by industry and sector. In general, work in excess of a 44-hour workweek required an overtime payment rate. The law does not require a minimum weekly rest period but does state that a person cannot be compelled to work overtime.

The law 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. Inadequate resources prevented the ministry from effectively carrying out this function. Workers could not remove themselves from dangerous work situations without jeopardizing continued employment.

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## HAITI

Haiti is a constitutional republic with a population of approximately nine million. International observers assessed the 2006 presidential and parliamentary elections as generally free and fair, after which President Rene Preval and the new parliament took office in May 2006. Parliament confirmed Jean-Max Bellerive as the new prime minister in November 2009. Haiti has a multiparty political system. Elections for one-third of the Senate's members, originally scheduled for late 2007, occurred in April and June 2008 and were also generally considered free and fair. Civilian authorities generally maintained effective control of the security forces, but in some instances elements of the Haitian National Police (HNP) acted independently. The UN Stabilization Mission in Haiti (MINUSTAH) consisted of approximately 9,100 military, police officers, and civilians who assisted and advised government and security authorities.

The following human rights problems were reported: failure to hold timely parliamentary elections, alleged unlawful killings by HNP officers, HNP participation in kidnappings, overcrowding and poor sanitation in prisons, arbitrary threats and arrests, prolonged pretrial detention, an inefficient judiciary subject to significant influence by the executive and legislative branches, severe corruption in all branches of government, violence and societal discrimination against women, child abuse, human trafficking, and ineffective enforcement of worker rights.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any known politically motivated killings. However, HNP officers killed several persons, who were usually armed and resisting arrest; there were also allegations of HNP involvement in unlawful killings.

On October 24, police arrested seven individuals, including two active police officers and one former police officer, for killing the owner of a money-exchange outlet during an armed robbery on October 5 in Port-au-Prince.

There were no further developments in the July 2008 death of Renece Charon, who died while in police custody.

In July three bodyguards, who were originally believed to be police officers and were detained in December 2008 for murder and attempted murder of residents in Martissant, a Port-au-Prince neighborhood, were released.

In response to continuing violence perpetrated by suspected criminals, residents in some neighborhoods resorted to vigilante justice. Nongovernmental organizations (NGOs) also reported vigilante incidents including shootings, beatings, and lynchings in rural areas, where effective judicial and law enforcement institutions largely were absent. Police statistics documented 74 lynchings through the end of October. Observers attributed the majority of lynchings to accusations of theft, witchcraft, or kidnapping.

On August 16, crowds lynched three men in Saint Marc. The media reported that the victims were believed to be werewolves. No arrests were made.

On October 4, a Port-au-Prince crowd stoned and hacked to death Thelime Fils-Aime, who allegedly had just decapitated his wife. Police made no arrests and publicly noted the difficulty of pursuing participants in mob justice.

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

Current and former HNP officers were accused of participation in kidnappings. Since some HNP officers were involved in narcotics trafficking, credible observers assumed HNP officers' complicity in disappearances related to narcotics trafficking.

Kidnappings decreased substantially during the year. There were 66 reported kidnapping victims in the first 10 months of the year, compared with 263 in 2008.

On January 12, unknown assailants abducted Director of the National Commission of Public Markets (CNMP) Robert Francois during an evening stroll. At year's end he remained missing and no arrests had been made.

At year's end there were no further developments in the July 2008 case of three Cap-Haitien police officers arrested for allegedly heading a gang responsible for multiple kidnappings.

In December 2008 Gonaives Police Commissioner Ernst Dorfeuille Bouquet was arrested and charged with the November 2008 kidnapping and murder of Monica Pierre; there were no further known developments in the case by year's end.

The 2007 disappearance of Lovinsky Pierre-Antoine, a supporter of former president Jean-Bertrand Aristide and a potential senatorial candidate, was unresolved. Pierre-Antoine remained missing at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and with the exception of a few HNP officers, as of October there were no reports that government officials employed them.

There were no further developments, and none were anticipated, in the following 2008 cases: the February beating of a local resident in the Canape-Vert precinct of Port-au-Prince by a HNP officer, the September reported beating of three local residents of Delmas 7 by the HNP's crowd control unit, and the September beating of Natacha Jeune Santil by four HNP officers.

On November 12, MINUSTAH issued a public press statement confirming that peacekeepers who had served in the country were among the 50 individuals sanctioned for sexual abuse of women and minors in 2007. They did not release further details.

*Prison and Detention Center Conditions.*—Prison conditions were harsh. Prisoners reported physical abuse by correctional officers; prisons also suffered from guard abuse, corruption, and indifference. Officers reported limiting their exposure to cellblocks due to insufficient staffing, equipment, and security.

Prisons and detention centers throughout the country remained overcrowded, poorly maintained, and unsanitary. Overcrowding was severe; in some prisons detainees slept and stood in shifts due to lack of space. Some prisons had no beds for detainees; some cells had not access to sunlight. Many prison facilities lacked basic services such as medical services, electricity, and medical isolation units for contagious patients. Many prisons also periodically lacked water. Many prisoners and detainees suffered from a lack of basic hygiene, malnutrition, and poor quality health care and illness caused by the presence of rodents. Some prisons did not allow prisoners out of their cells for exercise.

In some prisons the incidence of preventable diseases such as AIDS, malaria, and drug-resistant tuberculosis remained a serious problem. By October there were 62 inmate deaths, surpassing the 2008 total of 60. Sixty of these deaths occurred in the Civil Prison of Port-au-Prince (CPPP).

At year's end the total prison population, including both pretrial detainees and sentenced prisoners in the country's 17 prisons, was more than three times their capacity.

The overburdened prison system had insufficient holding facilities. The CPPP contained approximately half of the country's prisoners and held inmates in its intake room. Provincial authorities, in particular, incarcerated many convicted prisoners for long terms in temporary holding cells. Police stations served as prisons in the cities of Gonaives and Petit Goave, whose prisons were destroyed in 2004. They were severely overcrowded. Gonaives, for example, held 214 long-term prisoners in its local police station in October.

Port-au-Prince maintained separate penitentiaries for adult men and women. Both penitentiaries suffered from overcrowding, poor maintenance, and unsanitary conditions, but the problems at the men's penitentiary were more severe. In the 15 other prisons throughout the country, space permitting, male and female prisoners were held in separate cells. Children 16 and older were confined with adults. Minors and adults sometimes occupied the same cells due to lack of available space. Pretrial detainees were held together with convicted prisoners in the women's prison.

Most boys were held in a separate facility in Port-au-Prince. By law that facility may hold only boys ages 13 to 15, although a few children claimed to be as young as age 10. Girls were held separately from women at the Petionville Women's Penitentiary.

As of December 18, 2,262 of the country's 9,066 prisoners in custody had been tried and sentenced, while 6,804 awaited trial. Fifty-seven of the country's 467 incarcerated women and girls were in prolonged pretrial detention, several since 2004.

Prison population statistics did not include the large number of persons held in police stations around the country in prolonged pretrial detention (without a hearing or filed charges) for longer than the constitutionally mandated 48-hour maximum detention period. Inadequate record keeping and data entry at the police stations made it difficult to estimate the number of persons held in prolonged detention (see section 1.d.).

The International Committee of the Red Cross (ICRC), MINUSTAH, the local NGO National Human Rights Network for Haiti, and the government's Office of Citizen Protection (OPC) monitored prison conditions in cooperation with the Department of Prison Administration.

Authorities freely permitted the ICRC, the Haitian Red Cross, and human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical care, food, and legal aid. Primary concerns for most groups monitoring the conditions in the prisons related to adequate water, food, and sanitation. Although some programs, such as efforts to improve sanitation and health care delivery at the CPPP reported success, the government did not implement many changes recommended by NGOs and donor governments.

Authorities took some measures to improve prison conditions. In October authorities at the CPPP began holding convicted prisoners separately from those in prolonged pretrial detention. On December 8, construction on a higher security wall and interior catwalk was completed, improving the prison's public security. Because of the improved security, authorities began utilizing previously unused yards for exercise and as bathing areas. The CPPP's warden developed a prisoners' art project and began prisoner-taught basic education classes. The CPPP completed renovation of its infirmary and new construction of an isolation ward for seriously ill patients. The government added eight cells to the Civil Prison of Cap-Haitien.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the constitution stipulates that a person may be arrested only if apprehended during the commission of a crime or on the basis of a warrant by a legally competent official such as a justice of the peace or magistrate. The authorities must bring the detainee before a judge within 48 hours of arrest. Officials frequently did not comply with these provisions in practice.

At least some prisoners were detained for offenses not included in the criminal code, including witchcraft.

*Role of the Police and Security Apparatus.*—MINUSTAH, deploying 7,057 soldiers, 2,066 police officers, and 492 civilian UN officials, trained and supported the national police force, provided disaster recovery assistance, and assisted the government in suppressing gang-related violence.

The 8,546 member HNP has sole responsibility for law enforcement and maintenance of order; there are no military forces. The UN estimated that the country needs a force of at least 14,000 police, although it recommended 18,000 to 22,000 officers. The HNP is an officially autonomous civilian institution under the authority of a director general and includes police, corrections, and coast guard functions in separate units. The Ministry of Justice and Public Security, through its minister and the secretary of state for public security, provides oversight.

There were reports of corruption in the HNP, which the HNP has mechanisms to investigate. For instance, affluent prisoners sometimes obtained favorable conditions of detention. The HNP conducted investigations of police malfeasance, leading to the arrest or termination of employment of some officers. The Inspector General's (IG) Office of the HNP accepts and investigates allegations from any complainant of police wrongdoing, including human rights violations, complicity in criminal acts, and other violations. IG investigations revealing criminal activity were referred to the regional prosecutor.

Upon completion of these investigations, the IG forwarded its findings to the director general of the HNP and high-level Ministry of Justice officials for appropriate action. The first group of cases was provided to the government in 2008; a second group of cases was forwarded to the Ministry of Justice in June. As of October, the government had taken no further action on the cases. The IG also conducted vetting with MINUSTAH to certify that members of the HNP had no serious disciplinary violations or accusations of human rights abuses pending against them.

Reform and professionalization of the HNP continued as international programs, with the assistance of the National Network for the Defense of Human Rights, provided human rights and other training and equipment for new recruits and for existing officers; police station upgrades; security and humanitarian improvements to

prisons; vehicles, computers, and communications equipment; and other technical assistance. Some units, notably the Anti-Kidnapping Unit, made significant improvements. Nevertheless, reform efforts remained incomplete, and HNP officers occasionally were implicated in corruption, kidnapping, and narcotics trafficking. The Corrections Department of the HNP did not perform the same vetting and background procedures on new employees and guards as its HNP law enforcement counterparts. A MINUSTAH poll reported that 72 percent of the population perceived improvement in the HNP during the year. Another survey found that an increasing number of citizens were critical of the HNP and felt less safe overall.

Although the HNP's efforts resulted in significantly increased levels of physical security and policing effectiveness, the HNP could not always prevent or respond to gang-related and other societal violence, such as vigilante justice, due to an insufficient number of officers and inadequate equipment or training.

*Arrest Procedures and Treatment While in Detention.*—Police are permitted to make arrests when a suspect is caught during the commission of a crime, or later with a court-authorized warrant. Police sometimes apprehended persons without warrants or with warrants not issued by a duly authorized official. The authorities occasionally detained individuals on unspecified charges or pending investigation.

The government frequently did not observe the legal requirement to present detainees before a judge within 48 hours, and prolonged pretrial detention remained a serious problem. Many detainees were held in pretrial detention for extended periods—in some cases up to five years—without being informed of charges against them.

Investigative judges granted bail at their discretion. Bail hearings were not routine, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds, such as a need for medical attention. Detainees generally were allowed access to family members and a lawyer of their own choosing. Many detainees could not afford the services of an attorney, and the government routinely did not provide free counsel.

The government detained some repatriated citizens upon their return for approximately two weeks in “administrative quarantine” if the citizen had local criminal charges pending or when local family members could not be located. Authorities used the returnee’s time in detention to assess whether the citizen planned to participate in criminal activities and to locate local family members. The government took measures to improve its past record and increased its efforts to release these citizens in 10 days or less. Returnees, some of whom spent substantial portions or most of their lives abroad, alleged corruption, widespread discrimination, and social abuse after returning home. Reported discriminatory practices included arbitrary arrests, false accusations about their activities to local police, and extortion attempts against them and their families abroad during the initial detention phase, in exchange for quicker release from administrative quarantine.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, in practice the executive and legislative branches exerted significant influence on the judicial branch. Judges assigned to politically sensitive cases complained about interference from the executive branch. Credible reports of judicial corruption were commonplace (see section 4).

Pervasive and long-standing problems—including a shortage of funding and adequately trained and qualified justices of the peace, judges, and prosecutors as well as failure to convene court sessions on the schedule provided by law—contributed to the large backlog of criminal cases, and many detainees waited years for a court date. The Ministry of Justice and Public Security underwrote special summer felony hearings in Port-au-Prince to reduce pretrial detention backlogs, and the courts adjudicated an additional 115 cases at these special sessions. Still, since most of the 4,353 detainees awaiting trial in the Civil Prison of Port-au-Prince were held for serious crimes that warranted a jury trial, they were effectively denied the right to a prompt trial. An estimated 15 percent of detainees in the National Penitentiary had been convicted as of October.

The code of criminal procedure does not assign clear responsibility for criminal investigations and divides authority among police, justices of the peace, prosecutors, and investigative magistrates. Authorities often failed to question witnesses or complete investigations and rarely conducted autopsies, and examining magistrates often received incomplete files.

An outdated juridical fee scale created another barrier for crime victims requesting investigation of their cases. After a citizen reported being the victim of a crime, some justices of the peace charged varying “fees” to initiate criminal prosecutions based on their perceptions of what a service should cost.



Long distances and limited transportation between citizens' residences and the courts also limited access to the judicial system. In most regions judges lacked basic resources and professional training.

The School for Magistrates continued in-service training for justices of the peace, and during the year more than 150 justices from all 18 jurisdictions completed the intensive six-week training program. An internationally funded program provided training for judges, prosecutors, and other court personnel; furnished technical assistance in drafting rules and procedures; and assisted in curriculum planning for the school. The Judicial Strengthening Program begun by the National Center for State Courts provided assistance with training and curricula for judges and court personnel.

At the lowest level of the justice system, justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Thirty appeals court judges hear cases referred from the first instance courts, and the 11-member Court of Cassation, the country's highest court, addresses questions of procedure and constitutionality.

*Trial Procedures.*—The judicial apparatus follows a civil law system based on the Napoleonic Code, largely unchanged since 1880. In practice authorities widely ignored the constitutionally provided right to a fair public trial. The constitution also expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice is present or they waive this right. Most accused persons could not afford legal counsel for interrogation or trial, and the law does not require that the government provide legal representation. Defendants who could not afford representation were more vulnerable to interrogation without counsel. However, some defendants had access to counsel during trials. With the support of the national government and the local legal community, international groups provided funds to indigent defendants for professional legal representation.

While the constitution provides defendants with a presumption of innocence, the right to be present at trial, the right to confront witnesses against them, and the right to present witnesses and evidence on their own behalf, judges frequently denied defendants these rights. The lack of a witness protection program and widespread impunity discouraged some witnesses from testifying at trials. Defendants and their attorneys had access to government-held evidence before trial. Defendants had the right to appeal.

There were no known reports that citizens were denied these rights on the basis of gender, ethnicity, or disability.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Victims of alleged human rights abuses are able to bring their cases before a judge for cessation of the violation, but it is unknown whether damages can be awarded. Seeking legal remedies for human rights abuses is difficult, since very few organizations have the resources to start and maintain a case through its duration in the system.

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

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government and elected officials generally respected these rights in practice. However, there were a few incidents of local government officers and elected officials harassing or threatening journalists as well as reports of pressure from criminal groups.

During the April 19 round of senatorial elections, radio journalist Sainlus Augustin was publicly harassed, struck, and threatened by the brother and other supporters of senatorial candidate Wilot Joseph, allegedly because they objected to Augustin's attempt to interview supporters of the political opposition. Repeated anonymous death threats forced Augustin into hiding. The government initiated an investigation, which remained open at year's end; international and local human rights groups monitored the case throughout the year.

In September the government commissioner of Port-de-Paix briefly arrested radio station director Kerly Debreus on accusations of libel; he was released following public outcries from press associations and NGOs.

On December 9, HNP officers in Port-au-Prince beat journalist Edwige Joseph Watson and destroyed his equipment when he attempted to take photographs of a peaceful student demonstration. Although several officers tried to prevent the beating, others joined in. At year's end one officer was under investigation by the Office of the Inspector General.

There were no further developments in the July 2008 attack on news correspondent Joachim Marcel by the deputy mayor of Cap-Haitien and his bodyguards, allegedly in retaliation for Marcel's investigation of voting corruption.

*Internet Freedom.*—The government did not restrict access to the Internet or monitor e-mail or Internet chat rooms. Individuals and groups freely engaged in communication via the Internet, including by e-mail. Approximately 10 percent of the population had routine access to the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Citizens must apply for a permit in order to hold legal demonstrations; the HNP regularly issued permits.

Student demonstrations occurred throughout most of the year in downtown Port-au-Prince. Demonstrators threw rocks, occupied university offices, and burned and vandalized official and international vehicles. HNP authorities generally restricted their interventions to the use of tear gas and removing demonstrators from the scene. Unknown assailants killed two student demonstrators; there were no prosecutions.

On June 18, bystander Kerel Pascal was killed during a public funeral, allegedly by peacekeeping forces. Television cameras recorded a force member discharging a weapon in the general direction of Pascal. MINUSTAH began an investigation and conducted an autopsy, but no formal results were released by MINUSTAH or the government as of October.

On August 5, Ricardo Morette died during a demonstration in Lascahobas characterized by sporadic gunfire when Nepali MINUSTAH forces attempted to clear the road of blockades. An autopsy recovered no bullets, and MINUSTAH maintained that it was not responsible for Morette's death.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuse or discrimination against members of religious groups, including anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Persons deported from other countries were sometimes subjected to amendments in their Haitian passports, which singled out their status and impeded their transnational movements.

Since there were no known refugees in the country, there was no opportunity for the government to coordinate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and there were no reports of its use. However, according to anecdotal reports, many former government officials abandoned the country with their families for fear of retaliation or prosecution.

*Internally Displaced Persons.*—No further studies were conducted regarding the whereabouts of persons who temporarily abandoned their homes after the devastating 2008 storm season.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. The law provides for the granting of refugee status or asylum, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion, but it did not routinely grant refugee status or asylum.

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

The law provides citizens with the right to change their government peacefully through free and fair elections based on universal suffrage.

*Elections and Political Participation.*—Multiparty presidential and parliamentary elections in 2006 were relatively stable and peaceful. Rene Preval won the presidency with 51 percent of the vote. Citizens and international observers considered the election process acceptable and the results credible, and they noted few incidents of violence or fraud. Additional rounds of parliamentary and municipal elections were held in 2006 and April 2008. Electoral authorities scheduled elections for February through April 2010 to replace the entire Chamber of Deputies and a third of the Senate.

The Senate elections held in April-June were generally well run, although marked by low voter turnout and isolated incidents of ballot box stuffing, voter intimidation, and violence. In June the Provisional Electoral Council (CEP) sponsored a post-election investigation, which found that rival political parties in the Center Department acted inappropriately, and subsequently recommended sanctions against four individual candidates. Electoral authorities observed these recommendations and in December barred the four from running in the 2010 parliamentary elections.

Political parties were able to operate without restriction or outside interference. In November the CEP considered 69 political parties for the upcoming parliamentary elections and approved 53 parties. The CEP rejected 16 parties, including, for the second time during the year, former president Jean-Bertrand Aristide's party, Fanmi Lavalas (Waterfall Family). Other rejected major parties included Union, Popular Solidarity Alliance, Struggling People's Organization, and Fusion. The latter two groups allied under a new party banner, Alternative.

The constitution requires that following local and municipal elections, local officials must hold a series of indirect elections to staff departmental organs of self-government and an interdepartmental council to advise the national government and nominate candidates for the Permanent Electoral Council. The law requires that the three branches of the national government select from among these nominees the council's nine members. Since these indirect elections have not taken place since the constitution was written, the country continued to operate with the presidentially appointed the CEP.

Many persons, including the president, declared the constitutionally mandated calendar of frequent elections either too impractical or too expensive.

The electoral legislation mandated that political parties presenting at least 30 percent female candidates and succeeding in electing 20 percent of them receive twice as much public financing for those same positions in the next election. The monetary deposit required of female candidates for political office (if sponsored by a recognized party) was one-half that required of male candidates. Five women served in the 129-seat National Assembly; four women served in the prime minister's 18-member cabinet; no woman served on the Supreme Court.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. According to the World Bank's worldwide governance indicators, government corruption was a severe problem. Corruption remained widespread in all branches and at all levels of government. The constitution mandates that high-level officials and parliament members accused of official corruption be prosecuted before the Senate, not within the judicial system. However, the Senate brought no such cases of corruption. Poverty, lack of economic opportunity, and weak governmental institutions (especially relating to law enforcement and the judiciary) contributed to widespread corruption.

In March former minister of justice and public security Jean-Joseph Exume dismissed five Saint-Marc judges, two of them specifically for "serious acts of corruption." No charges were filed.

The HNP, with the assistance of UN civilian police, continued efforts to eliminate corruption within its ranks, and the government continued to investigate individuals in the business sector and in government entities for corruption but brought no charges. The Center for Pleas and Legal Assistance offered judicial assistance to victims and witnesses of government corruption and widely disseminated telephone and e-mail contact information.

Authorities arrested or detained a few low-level public servants, mainly customs officials, on corruption or corruption-related charges.

The director of the Social Security Agency, Sandro Joseph, was arrested in May on charges of misuse of funds within the social security system, including improper loans and disbursements to national officials. He was awaiting trial at year's end.

There were no known developments in the investigation begun in 2007 concerning alleged mismanagement of funds at the Ministry of Foreign Affairs in 2004-06.

Several persons and groups, including the then prime minister Pierre-Louis and the Heritage Foundation for Haiti, called for an audit of the 197 million dollars of humanitarian assistance provided to the country by Petrocaribe in the aftermath of the 2008 storm season. The government's Anti-Corruption Unit (ULCC) opened an investigation.

By law the president, the prime minister, cabinet ministers, and other high-level public officials must declare assets. The Financial Control and Information Office has responsibility for combating financial crimes. The ULCC reported in September that 412 officials, including just one senator and 19 deputies, had observed the law and filed disclosure statements. HNP officers are also required to file disclosure statements. Public officials who do not fulfill this obligation are subject first to a 50 percent reduction in salary, followed by suspension, until they file their statements. The government sanctioned no officials as of the end of October for failure to file the disclosures.

The CNMP is charged with certifying that public contracts in excess of 700,000 Haitian gourdes (HTG, or approximately \$16,700) conform to the law.

No law requires public access to government information, but there were no reports that the government prevented public access to government information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government cooperated with the various human rights observation missions and generally acknowledged their views but lacked the capacity to implement their recommendations. The government permitted special missions and the continued presence of UN bodies and other international organizations such as the ICRC.

The UN sent several envoys and investigators to the country during the year. UN Special Envoy Bill Clinton made several visits and highlighted the progress the country's improvements in security. UN Independent Expert on the Situation of Human Rights in Haiti Michel Forst visited the country four times to draw attention to various human rights matters. He made numerous recommendations, including that the government make a final resolution of outstanding human rights vetting dossiers for members of the HNP, that President Preval appoint a Supreme Court chief justice, and that the government increase efforts to end prolonged pre-trial detention. In June UN Special Rapporteur on Contemporary Forms of Slavery Gulnara Shahinian investigated human trafficking (see section 6) and recommended that the government form a National Commission on Children, educate officials working with vulnerable children, and begin universal birth registration. With the exception of the Ministry of Social Affairs and Work's efforts to educate officials working with vulnerable children, by year's end the government had not implemented the recommendations.

At national and international levels, human rights organizations actively and effectively monitored human rights matters, meeting frequently with government officials. Human rights organizations made media appearances, hosted training sessions and conferences, and published reports.

The OPC is mandated to protect individuals against any form of abuse by the government. The OPC offered free legal assistance to any citizen who appeared before a court regarding a filed complaint. In the first half of the year, the OPC had a reputation for ineffectiveness and primarily operated within Port-au-Prince, but it began operating under new leadership in August. The government rarely acted on OPC recommendations.

The Chamber of Deputies and the Senate each had a human rights committee; however, neither committee published any reports or introduced any legislation during the year.

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

The law does not specifically prohibit discrimination on the grounds of race, gender, disability, language, or social status. It does provide for equal working conditions regardless of gender, beliefs, or marital status. However, no effective governmental mechanism administered or enforced these provisions.

*Women.*—The law prohibits and provides penalties for rape but does not recognize spousal rape as a crime. The penalty for rape is a minimum of 10 years of forced labor, increasing to a mandatory 15 years if the victim was less than 16 years old. In the case of gang rape, the maximum penalty is forced labor for life. Sentences were often less rigorous. The criminal code excuses a husband who kills his wife or her partner found engaging in an act of adultery in his home, but a wife who kills her husband under similar circumstances is subject to prosecution. Anecdotal evidence suggested that some younger women were detained after violently resisting sexual attackers, sometimes family members. Kidnappers often raped their female abductees.

Reported sexual assault cases increased. HNP statistics showed that 218 rapes were reported as of October, compared with 282 for all of 2008; 76 victims were adult women, 139 were female minors, one was an adult man, and two were male minors. NGOs estimated that the numbers reflected an increase in incidents, rather than a greater degree of confidence in the legal system, and noted alarming increases in sexual violence against women in Petit Goave, the Artibonite, and the Port-au-Prince neighborhood of Cite Soleil.

In Saint-Marc the Federation for Women of the Lower Artibonite reported that it received more than 260 victim requests for legal assistance from July to October.

Rape was especially common in areas with minimal police presence. Many credible NGOs and government sources believed that urban gangs used rape as a systematic instrument of intimidation. Women's shelters and organizations reported that armed gangs frequently raped and harassed girls and women.

Rape was often treated in practice as a relatively minor infraction or a family or community matter instead of a prosecutable offense. Substantial disincentives discouraging victims from reporting rapes included: victims' desire to protect themselves from the social or physical consequences of bringing accusations against the perpetrators, who often lived in the community; tacit cultural acceptance of sexual assault; the lack of sufficient facilities or services at police stations to aid rape victims; the long distances between homes and qualified tribunals; and finally, the corrupt judicial system that fosters a perception of impunity. Cases were often relegated to a justice of the peace, who acted as a mediator, with an emphasis on finding family or community solutions as opposed to punishing the perpetrator. No statistics were available on the number of abusers who were prosecuted, convicted, or punished.

Two officially sponsored centers for victims of sexual violence opened during the year. A shelter offering comprehensive services from legal to medical assistance opened in April with the help of international donors but was barely operational by year's end. In September a center for victims of sexual violence was inaugurated in Port-au-Prince to assist victims with registering assaults and obtaining legal and medical care. The center is colocated with a local police station, which is charged with actively assisting victims. In Saint-Marc the local government commissioner worked closely with the only NGO offering comprehensive services to sexual assault victims in the region to protect victims' safety and access to the justice system. The same official, Yvon Pradel, publicly called upon the families of these victims to offer them support and accompany victims as their cases proceeded through the judicial system.

The law prohibits and provides penalties for domestic violence, but women's rights groups and human rights organizations reported that domestic violence against women remained commonplace and underreported. Government figures reported 38 incidents of domestic violence in the first 10 months of the year (compared with 31 incidents in all of 2008); there were 27 adult female victims, five adult male victims, and three cases each of minor male and minor female victims. Police rarely arrested the perpetrators or investigated the incidents, and the victims sometimes suffered further harassment and reprisals from perpetrators. Corrupt judges often released suspects arrested for domestic violence and rape.

In February the Tribunal of Petit-Goave sentenced Berthony Sagesse to 15 years in prison and a fine of HTG 100,000 (approximately \$2,500) for the 2008 attack upon his former wife Martine Lindor. The judgment reversed an earlier summary dismissal.

The government, with the support of international donors, sponsored a program for victims of violence that provided medical and legal assistance for victims, as well as a campaign denouncing violence against women.

Although prostitution is illegal, it remained a widespread practice, particularly among women and girls. Police generally ignored prostitution.

The law does not specifically prohibit sexual harassment, although the labor code states that men and women have the same rights and obligations. Data concerning sexual harassment in the workplace were not available, although observers sug-

gested that sexual harassment was common. Such incidents went unreported because of high unemployment and because citizens had little confidence in the ability of the judicial system to protect them.

Couples and individuals have the legal right to decide the number, spacing, and timing of children. The 2005 Demographic and Health Survey showed that only 25 percent of couples used modern contraceptive methods, and the rate of unmet need for family planning was 38 percent. Despite high levels of general knowledge of contraceptive methods, women had few opportunities to acquire additional information on family planning methods and to learn about the possible negative effects of certain contraceptive methods. The maternal mortality ratio was 630 per 100,000 live births. Although 85 percent of pregnant women received prenatal care at least once during their pregnancy, only 25 percent delivered in a health facility, and a vast majority delivered their babies at home without the benefits of a skilled birth attendant or the ability to find adequate care in the event of complications. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections, including HIV/AIDS.

Women did not enjoy the same social and economic status as men. In some social strata, tradition limited women's roles. The majority of women in rural areas remained in the traditional occupations of farming, marketing, and domestic labor. Very poor female heads of household in urban areas also often faced limited employment opportunities, such as domestic labor and sales. Government and private sectors seldom promoted women to supervisory positions. Excepting the HNP, which continued efforts to recruit and increase the percentage of women in its ranks, there were no government efforts to combat economic discrimination.

Many domestic women's rights groups worked through a national network, the Coordination for Advocacy on Women's Rights.

*Children.*—Citizenship is derived through an individual's parents; only one parent of either sex is necessary to transmit citizenship. Citizenship can also be acquired through a formal request to the Ministry of the Interior.

The government did not register all births immediately and did not keep statistics concerning the number of births unregistered each year. One government estimate of the total number of Haitians whose births were not registered was more than one million (out of a total population of nine million). Birth documents are legally necessary to register for school, open a bank account, apply for credit, gain admission to a hospital, and vote. Although required, individuals without birth documents were not denied emergency medical services or educational opportunities on that basis. Anecdotal evidence suggested that birth documents were not required to obtain such basic documents as a voting identification card.

Credible sources reported that large numbers of domestically trafficked children were forced to work as indentured household servants. Governmental agencies and programs promoted children's rights and welfare, but the government lacked sufficient resources to support or enforce existing mechanisms adequately. In June the Social Welfare Office (IBERS) conducted a two-week campaign aimed at heightening awareness of children's rights. On October 21, the government inaugurated the Youth Center for Vulnerable Children in Port-au-Prince, which offered social support services to at-risk youth.

Children also worked on the street in prostitution. Recruitment of children for sexual exploitation, pornography, and illicit activities is illegal. The law prohibits the corruption of youth under the age of 21 years, including by prostitution, with penalties ranging from six months' to three years' imprisonment.

The minimum age of consensual sex is 18. Inefficiencies in reporting and investigating allegations of rape contributed to uncertainties regarding penalties, if any, for statutory rape.

Port-au-Prince's population of at least 2,500 street children (as of October) included many who were dismissed from or fled employers' homes, but also some children who fled abusive homes or families who could no longer provide for them. NGOs reported that street children were likely to be sexually or otherwise abused, received little or no education, and were easily exploitable by trafficking recruiters. Criminal gangs also reportedly enlisted minors to commit illegal acts.

The Ministry of Social Affairs provided some assistance, such as food and temporary shelter, to street children. A shelter reopened by the government in April 2008 assisted children but did not provide adequate food, education, medical care, or adult supervision. Some children in the facility reported that they had families whom they were not allowed to visit. Minor males and minor females were housed separately.

Credible and numerous NGOs reported widespread and endemic abuse at many of the country's more than 600 orphanages, the majority of which were unregistered or not licensed by the government. IBERS and the HNP's Brigade for the Protection

of Minors (BPM) increased efforts and cooperation toward increased regulation and oversight. Lack of sanitation, overcrowding, insufficient food, an absence of education, and poor adult supervision characterized many facilities.

On September 16, Douglas Perlitz was arrested in the United States on suspicion of sexually abusing minors at a boys' home, which he founded and managed in Cap-Haitien. The facility closed in January.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, although labor legislation and other laws, including those prohibiting and penalizing slavery, kidnapping, violence against women, as well as those prohibiting recruitment of children for sexual exploitation, pornography, and illicit activities could be used to combat human trafficking, including trafficking of children. There were reports that persons were trafficked from, to, through, and within the country.

The country was a source for persons trafficked to the Dominican Republic, the Bahamas, Jamaica, the United States, Europe, and Canada. Trafficked citizens reported conditions of bonded servitude, slavery, and forced labor. Extreme poverty and lack of employment were among key risk factors supporting human trafficking. Women from the Dominican Republic were trafficked into the country for sexual exploitation. Traffickers also used the country as a transit point for foreigners.

Several NGOs reported the problem of child trafficking for sexual and labor purposes, especially to the Dominican Republic and the Bahamas.

The government acknowledged the problem of internal trafficking, including that of children, and on October 26, announced that it was ready to take measures to prohibit the practice. The BPM investigated cases of child trafficking and monitored movement of children across the border with the Dominican Republic, but it faced many barriers to its operational effectiveness. The BPM, with 75 officers, stationed personnel in each of the country's 10 departments and established a hotline to receive tips regarding child trafficking and abuse. With international partners, in August BPM also began conducting nighttime operations to locate children at risk and return them to their families. The first operation successfully located and returned 14 children to their families. International organizations, including the International Organization for Migration (IOM), were primary providers of services to victims of trafficking.

Authorities picked up some *restaveks* who escaped and referred them to the government's Institute for Social Welfare and Research (IBESR) for temporary care in dedicated shelters. The IOM provided financial and technical support to two such centers in Port au Prince, which provided shelter, food, medical and psychosocial services for the children until their parents were found and they were able to return to their families. Shelter capacity was limited and rescued children could not always return to their families. Since 2005 the IOM has assisted approximately 300 children.

No information was available on the principal traffickers, their networks, or methods. There were no antitrafficking laws and thus no prosecutions or convictions during the year.

In general the government could not provide sufficient protection, shelter, or assistance to victims and witnesses, and it referred victims to NGOs for services. Child victims of domestic trafficking living as street children in Port-au-Prince or subjected to domestic servitude as *restaveks* (live with) were so numerous throughout the country that the BPM did not as a matter of routine try to help them (see section 7.d).

The Ministry of Social Affairs and Work and the Social Welfare Officer actively sponsored and participated in numerous conferences organized around antitrafficking and children's rights.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The constitution and laws do not explicitly prohibit discrimination against persons with physical and mental disabilities, and there were no reports of discrimination by the government against persons with disabilities in employment, education, access to health care, or the provision of other state services. However, because of widespread and chronic poverty, a shortage of public services, and limited educational opportunities, persons with disabilities were severely disadvantaged. The government and NGOs distributed wheelchairs and implemented awareness campaigns. Access for persons with disabilities was limited, but the government implemented a program for increased numbers of disabled students to take part in national exams.

There were no reports of abuse in mental health facilities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There was a minimal presence of gay, lesbian, bisexual or transgender (LGBT) advocacy NGOs operating within the country.

There were no officially confirmed reports of discrimination against the LGBT community, but local NGOs reported that LGBT persons faced widespread societal discrimination including social stigma, targeted physical violence, sexual assault, and employment insecurity. NGOs also reported that such persons did not report human rights violations due to fear of reprisal.

*Other Societal Violence or Discrimination.*—Societal discrimination occurred against persons with HIV/AIDS, particularly women, but educational programs sponsored by foreign donors and efforts by HIV/AIDS activists attempted to change that stigma.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers, except public-sector employees, to form and join unions of their choice. The law also requires that a union must have a minimum of 10 members and register with the Ministry of Labor and Social Affairs within 60 days of its formation. The law prohibits employers, management, and anyone who represents the interests of employers from joining a union. In theory unions were independent of the government and political parties, but in practice most unions were extensions of political parties. There were nine principal labor federations representing approximately 5 percent of the labor force.

The labor code provides for the right to strike with restrictions, except for managers, administrators, other heads of establishments, public utility service workers, and all public sector enterprises, and workers exercised this right in practice. 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.” A 48-hour notice period is compulsory for all strikes, and strikes may not exceed one day.

Despite the prohibition there were a few public sector strikes, usually related to the government’s failure to pay staff on time. Doctors and staff struck for weeks in several public hospitals, including the central public hospital in Port-au-Prince, demanding back pay and better working conditions. In December nurses in Gonaïves went on strike to protest nonpayment of their salaries for the preceding 30 weeks.

*b. The Right to Organize and Bargain Collectively.*—While the law protects trade union organizing activities and stipulates fines for those who interfere with this right, in practice the government made little effort to enforce the law.

High unemployment rates and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining was nonexistent, and employers set wages unilaterally.

Although workers had access to labor courts established to resolve common labor-management disputes, the courts’ judgments were not enforced. The courts function under the supervision of the Ministry of Labor and Social Affairs and adjudicate minor conflicts, but unions stated that the process was ineffective. Seven labor courts operated in Port-au-Prince, and in the provinces plaintiffs utilized municipal courts.

The law prohibits antiunion discrimination by employers, who are liable to a monetary fine for each individual violation. The law does not specify that employers must reinstate workers illegally fired for union activity. Illegally fired workers have the right to recoup any compensation to which they are entitled. The labor court adjudicates all labor disputes, but it was considered weak and ineffectual.

There are no special laws or exemptions from regular labor laws in the single export processing zone in Ouanaminthe, a town on the Dominican border.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including of children; however, there were reports that such practices occurred, namely instances of forced labor of child restaveks (see section 6, Trafficking in Persons).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum employment age for employment in all sectors, including domestic service, is 15. The minimum age for apprenticeships is 14. The law prohibits minors from working under dangerous conditions and prohibits night work in industrial enterprises for minors under 18. Fierce adult competition for jobs ensured that child labor was not a factor in the industrial sector. However, children under the age of 15 commonly worked at informal-sector jobs to supplement family income. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in signifi-



cant numbers. There was no legal penalty for families that employed children in domestic labor as *restaveks*, the primary form of child employment.

Parents unable to care for their children have traditionally sent them to relatives or strangers who were expected to provide the children with food, shelter, and an education in exchange for housework. The practice was so entrenched that even poor families routinely kept one or more *restaveks* who came from even poorer families. Parents often offered their children as *restaveks* when they were six years old, or even younger. While some *restaveks* were cared for by their host families and sent to school, most of them were subjected to abuse and involuntary domestic servitude.

Government and NGO estimates of the number of *restaveks* ranged between 90,000 and 300,000, the majority of whom were girls between the ages of six and 14. Exploited *restaveks* typically worked excessive hours on physically demanding tasks without pay or adequate food, did not attend school, and were often physically and sexually abused by their host family. Girls were generally placed in domestic servitude in private urban homes, while boys more frequently were exploited for labor on farms. *Restaveks* who did not run away usually remained with the host family until age 14. Labor laws require employers to pay domestic workers over 15 years old, so many host families forced *restaveks* out of the household before that age. Abandoned and runaway *restaveks* constituted a significant proportion of the large population of children living on the street, where most were forced into prostitution or street crime by criminal gangs, while others became street vendors or beggars.

Although the government charged with implementation and enforcement of child labor laws and regulations, the IBESRP lacked adequate funding to investigate exploitive child labor cases effectively. Other factors contributing to ineffective investigation and lack of judicial recourse were border permeability and lack of a well-trained and well-equipped police force.

*e. Acceptable Conditions of Work.*—During the year parliament implemented a new stratified minimum wage system. On October 1, the daily minimum wage was set at HTG 125 (approximately \$3.00) in the textile sector and HTG 200 (approximately \$5.00) in the commercial and industrial sectors. Workers paid at a piecework rate received a minimum of HTG 200 per day. For all other industrial and commercial establishments, the minimum wage was fixed at HTG 200 per day for eight hours of work.

Most citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply, and daily wages of HTG 15 (\$0.37) were common. Many women worked as domestic employees, an area of work also exempted from minimum wage legislation.

The law sets the standard workday for industrial, commercial, and agricultural establishments at eight hours and the workweek at 48 hours, with 24 hours of rest. It also provides for the payment of overtime and prohibits excessive compulsory overtime. However, the law grants exemptions to health care, lodging, food and beverage, and entertainment establishments; managerial positions; and family establishments that employ only family members. The Labor Directorate also may grant exemptions for other employers not specifically exempted by the law. These laws were not effectively enforced. In addition the law is silent concerning public sector employees. Due to staff shortages and special events, salaried HNP officers sometimes worked 12-hour shifts six days per week and received no overtime, although they received standardized bonuses at year's end. HNP officers had also not been incorporated into the standardized government schedule of benefits after their initial three-year probationary contracts. In severely understaffed regions, officers sometimes worked longer hours to serve the needs of their communities.

The law also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines, but the Ministry of Labor and Social Affairs did not enforce them effectively. No group collected formal data, but unions alleged that job-related injuries occurred frequently in the construction industry and public works sectors. Although they have the legal right to do so, in practice workers could not exercise the right to remove themselves from dangerous work situations without jeopardizing their continued employment.

## HONDURAS

On June 28, the military forcibly removed and sent into exile President Jose Manuel Zelaya, and Congress President Roberto Micheletti Bain became the leader of a *de facto* regime. Until the June 28 coup d'état (June coup), the country was a constitutional, multiparty democracy with a population of approximately eight

million. The coup was preceded by months of political tension between the executive and other branches of government in relation to an executive proposal to hold a referendum on convening a constitutional assembly to consider reforms to the constitution. Although the coup was bloodless, subsequent related events resulted in the loss of life as well as limitations by the de facto regime on freedom of movement, association, expression, and assembly. On November 29, voters elected Porfirio "Pepe" Lobo of the National Party for a four-year term to the presidency, in elections that international observers considered to be generally free and fair. While civilian authorities generally maintained effective control of the security forces prior to the June coup, there were instances in which elements of the security forces acted independently of government authority.

The following human rights problems were reported: unlawful killings by members of the police and government agents; arbitrary and summary killings committed by vigilantes and former members of the security forces; harsh prison conditions; violence against detainees, and corruption and impunity within the security forces; lengthy pretrial detention and failure to provide due process of law; arbitrary detention and disproportionate use of force by security forces after the June coup; politicization, corruption, and institutional weakness of the judiciary; erosion of press freedom; corruption in the legislative and executive branches; limitations on freedom of movement and association; government restrictions on recognition of some nongovernmental organizations (NGOs); violence and discrimination against women; child prostitution and abuse; trafficking in persons; discrimination against indigenous communities; violence and discrimination against persons based on sexual orientation; ineffective enforcement of labor laws; and child labor.

During the political crisis following the June coup, demonstrations occurred throughout the country. Curfews were arbitrarily implemented during which security forces employed disproportionate use of force, resulting in some cases of loss of life and acts of vandalism by protestors. The de facto regime also limited freedom of assembly and restricted freedom of the press. Most notably, on July 1, September 26, and October 5, the de facto regime enacted decrees that suspended the constitution during curfew hours and placed substantial restrictions on freedom of expression, assembly, and association.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Prior to the June coup, there were reports that the government or its agents committed arbitrary or unlawful killings, particularly of youths and children by vigilante groups that may have included members of the security forces. Following the June coup, there were reports that the de facto regime or its agents committed arbitrary or unlawful killings.

The Office of the Special Prosecutor for Human Rights reported that between January and November, it received 63 complaints of killings in which police or military were allegedly involved. The office pressed charges in some cases. The government has a Special Unit of Investigation of Child Murders, but the investigative process seldom identified perpetrators.

Casa Alianza reported through December the killings of 159 minors under age 18 and of 468 youths between the ages of 19 and 22, compared with 128 and 416 respectively during 2008. Casa Alianza reported that more than 50 percent of the killings were committed by unknown assailants, and a smaller number were attributed to private security forces, government agents, and gang violence.

Throughout the year several groups and families of juvenile victims claimed to have provided public prosecutors with evidence of collusion between police elements and business leaders in perpetrating killings. While observers linked some killings of high-profile targets, such as environmentalists, labor leaders, attorneys, and politicians, to organized crime and narcotics traffickers; other cases appeared politically motivated.

The following were among the killings reported prior to the June coup:

On January 18, unknown actors shot and killed Marlene Suyapa Gavarrete in Rubi de Choloma during the robbery of a convenience store. Gavarrete had been defense counsel in court cases involving gang members. An investigation continued at year's end.

On January 24, unknown assailants allegedly carjacked and fatally shot Rodrigo Eugenio Valladares Pineda, son of former human rights commissioner Leo Rodrigo Valladares Lanza, as well as Edmund Jeffry Trochez and Isaiah Nahum Bonilla Escobar. On January 31, police arrested Norman Gilberto Reyes, an alleged member of a carjacking gang. At year's end Reyes was awaiting trial.

On February 13, unknown assailants shot and killed Marco Tulio Velasquez in Santa Rosa de Copan. Tulio was a National Party congressional candidate from Copan Department. At year's end an investigation continued.

On February 28, unknown assailants fatally shot environmentalist Jose Miguel Pagoada Tercero while he was working on land he had helped reforest in the Hato de Enmedio community. At year's end an investigation was proceeding.

On March 7, unknown assailants fatally shot in San Pedro Sula Liberal Party congressional candidate Oscar Heberto Mejia Villafranca, who was an advisor to the mayor of San Pedro Sula. At year's end an investigation continued.

On March 22, two unknown persons fatally shot land-rights activist Miguel Angel Reyes in Cofradia. On April 27, Juan Angel Rivera Gonzalez, also a land-rights activist from Cofradia, was shot and killed by unknown persons. Authorities arrested Adan Rodriguez Cabrera for the killing of Rivera, and an investigation continued at year's end.

On April 15, unknown gunmen fatally shot Odilio Acosta and Santos Aguilar of the Campesino Movement of Rigores in Trujillo, Colon. Acosta and Aguilar had been involved in a land dispute. At year's end there was no information available regarding an investigation of this incident.

On June 3, several persons, allegedly impersonating police by wearing police uniforms, fatally shot Andres Reyes, Marlon Javier Turcios, Heber Rendon, Felix Omar Mayorquin, Dagner Canales, Santos Sabillon, Carlos Villatoro, Allan Belis, and Harry Plama in Saba, Colon Department. The nine victims were employees of landowner Miguel Reyes. Police reported that the incident may have been linked to drug trafficking. An investigation continued at year's end.

The following cases were reportedly connected with political unrest related to the June coup:

On July 5, unknown assailants fatally shot Isis Obed Murillo during an anticoup demonstration at Toncontin Airport. Human rights NGOs alleged the bullet that killed Murillo was of the same caliber the military used. At year's end the Public Ministry was conducting an investigation and had requested that the military provide those firearms carried at the airport on July 5. The military reportedly refused to comply with this request.

On August 1, Roger Vallejo died of gunshot injuries he received during a July 30 anticoup demonstration in Tegucigalpa. At year's end the Office of the Special Prosecutor for Human Rights was investigating the incident.

An Inter-American Commission on Human Rights (IACHR) delegation that visited the country between August 17 and 21 to assess the human rights situation, received a complaint that on August 2, a military official fatally shot in the head Pedro Pablo Hernandez at a military roadblock during curfew hours in Jamastran. The military later detained the officer suspected in the shooting. An investigation by the Office of the Special Prosecutor for Human Rights was pending at year's end.

On September 22, during a curfew in San Pedro Sula, police officer Denis Omar Montoya reportedly shot and killed 19-year-old Jacobo Perdomo, who was unarmed and riding his bicycle and failed to obey Montoya's order to stop. Authorities issued an order for Montoya's arrest. At year's end Montoya remained at large and an investigation continued.

On September 22, unknown assailants on a motorcycle reportedly shot Jairo Sanchez, president of the workers' union at the Institute of Professional Formation, during an anticoup protest in Tegucigalpa. On October 17, Sanchez died from injuries he sustained during the shooting. At year's end authorities were conducting an investigation.

On September 23, the National Investigative Police confirmed that unknown persons fatally shot Francisco Moncada Alvarado during a police break-up of an anticoup demonstration in the Flor de Campo neighborhood in Tegucigalpa. At year's end an investigation was proceeding.

On November 27, unknown assailants reportedly shot at the automobile of Angel Salgado when he drove through a military roadblock in Tegucigalpa. Salgado suffered a head wound as a result of the shooting, lost control of the vehicle, and seriously injured a bystander. Witnesses reported that members of the security forces removed all evidence immediately after the incident. Unknown persons brought Salgado to Teaching Hospital in Tegucigalpa, where he died of his injuries. At year's end there was no information about any investigation of the case.

The following cases originated before 2009:

In January police announced that the youth gang responsible for the April 2008 killing of labor leader Altigracia Fuentes (see section 7.a.) also committed the November 2008 killing of Mario Fernando Hernandez Bonilla, a Liberal Party congressional deputy and a congressional vice president. On January 19, authorities issued

arrest warrants for four members of the gang in relation to the killings. At year's end the suspects remained at large.

There were no known developments in relation to the August 2008 killing of 11 persons involved in a land dispute between relatives of police official Henry Osortes and the Aguan Campesino Movement (MCA).

At year's end authorities arrested Julio Cesar Galan Rodriguez for the June 2008 killing in Trujillo of Irene Ramirez, a member of the MCA.

There were no new developments, and none were expected, in the investigation into the July 2008 killing of Shamir Guifarro Ramirez, Henry Arturo Chacon, and Nelda Ochoa—the son, father-in-law, and mother-in-law, respectively, of environmentalist Mario Guifarro, who was killed in 2007.

In March police arrested Amilcar Antonio Hernandez for the October 2008 killing of land-rights activist and community leader Elias Murcia. At year's end Hernandez was in prison and awaiting trial. There was no further information regarding the status of the cases of Fredi Osorto and Ubence Aguilar, who were killed with Elias Murcia in October 2008.

There were no developments in the investigation of the November 2008 killing of Danilo Edgardo Castro Hernandez, La Lima vice mayoral candidate, or the November 2008 killing of Julio Cesar Padilla, Liberal Party mayoral candidate for Morazan.

There were no new developments, and none were expected, regarding the 2007 killing of Garifuna leader Felix Ordonez Suaze in Punta Piedras, Colon Department.

There were no further developments, and none were expected, regarding an investigation of the 2007 killing of Regional Red Cross president Jose Raul Carranza Soto in Puerto Cortes. Carlos Alberto Navas Gonzalez, the only known suspect, remained in prison on a separate conviction.

At year's end four police officers, who were awaiting trial for the 2006 killing of environmentalists Heraldito Zuniga and Roger Murillo, remained at large after escaping from prison in 2008.

At year's end the prosecutor was considering appealing a court's decision to acquit Italo Ivan Lemus Santos for the 1998 killing of environmentalist Carlos Luna.

On February 4, the Supreme Court sentenced Efraim Ordonez to 32 years in prison for the 1997 kidnapping and murder of Ricardo Ernesto Maduro Andreu.

On May 6, the Inter-American Court of Human Rights found the government responsible for the 1995 murder in Tela of environmental activist Blanca Jeanette Kawas Fernandez. The court ordered the government to pay the Kawas family reparations of \$105,000 in U.S. currency within one year of the ruling. The court also ordered that within two years of the ruling the government conduct a national campaign to create awareness and sensitivity regarding the importance of environmentalists' work and their contribution to the protection of human rights. At year's end the government had not responded to the court's ruling.

On May 8, the Office of the Forensic Medicine Department of the Honduran National Police (HNP) discovered the remains of Edwin Palacios, who was kidnapped in 2007. On June 18, inmates Elmer Orellano and Alexander Reyes, charged with murdering Palacios, along with two gang member inmates, escaped from a San Pedro Sula prison where they were incarcerated. At year's end Orellano, Reyes, and the two other escaped prisoners remained at large.

Violent crime continued to fuel the growth of private unlicensed security guard services and vigilante groups that allegedly patrolled neighborhoods and municipalities to deter crime. Human rights organizations asserted that some citizen security councils (neighborhood protection groups), as well as private security companies, with ties to former and current military or police officials, acted with the complicity of police as vigilantes or death squads to use lethal force against supposed habitual criminals.

*b. Disappearance.*—There were reports of politically motivated and other disappearances. Some disappearances, including those involving disappearances of minors, were thought to be criminally motivated abductions, and others were attributed to voluntary acts of persons leaving the country for employment elsewhere or to escape death threats. Police reported investigating 111 cases of kidnapping during the year.

On March 31, the government announced 13 measures to combat kidnapping for ransom, including blocking cell phone calls from jails as a means to stop criminal gang inmates from arranging kidnappings. At year's end a cell phone blocking program operated at the Dr. Marco A. Soto National Penitentiary.

On March 15, unknown actors kidnapped Bernardo Rivera Paz, a retired journalist and former Liberal Party deputy. On July 9, authorities found his remains in Florida, Copan Department. At year's end an investigation continued.

There were no known developments in the October 2008 disappearance of Jose Alfredo Guevera, Carlos Lazo, and Hector Herrera.

On September 1, the Public Ministry reported that officers at the La Lima, Cortes police station had used for almost one year, without informing their superiors, a vehicle belonging to public defender Juan Bautista Vargas, who disappeared in 2008. At year's end Vargas' whereabouts were unknown.

The National Reparations Program, created by government decree in 2008, did not operate during the year due to court-granted injunctions initiated by private parties questioning the program's legality, particularly in relation to proposed reparations payments for human rights violations to Berta Oliva, president of the NGO Committee of the Family of Detained and Disappeared in Honduras (COFADEH), and Presidential Advisor Milton Jimenez.

On May 19, a judge ordered the former head of Battalion 3-16, Alexander Hernandez, to house arrest pending further investigation into his alleged involvement in the 1983 disappearance of Nelson Mackey. On July 2, a court granted without explanation early release for former army lieutenant Wilfredo Leva Cabrera in relation to his sentence of 80-years' imprisonment for several crimes, including the murder of Mackey.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit such practices, there were instances in which the police and military employed them, including police beatings and other abuse of detainees and political protestors.

There were allegations of nonlethal abuse of force and serious physical assaults by the police and military against anticoup protesters in connection with the political conflict following the June coup.

The following are representative examples of these allegations:

The IACHR delegation reported receiving complaints from more than 100 persons alleging that during anticoup demonstrations, police used disproportionate force resulting in physical injuries to protestors. The HNP reported receiving between June 29 and August 15, 31 complaints of persons injured by police during political demonstrations.

The Office of the Special Prosecutor for Human Rights in San Pedro Sula reported filing charges between June 28 and October 11 against 13 police officers in four cases involving unlawful detention and physical abuse of anticoup protestors. Authorities issued an arrest warrant for police officer Delmi Yamileth Martinez for aggravated illegal detention and torture for allegedly using pepper spray and threatening to kill anticoup demonstrator Antonia Coello on August 12, in San Pedro Sula. At year's end an investigation continued, and Martinez was at large.

On July 30, police struck with a baton independent presidential candidate Carlos H. Reyes during an anticoup political demonstration in Tegucigalpa. Reyes fell 15 feet over a retaining wall and suffered a broken arm. At year's end there was no information available regarding an investigation of the incident.

On August 14, four police officers reportedly raped a woman in a remote location after detaining her for participating in an anticoup political demonstration that same day in Choloma, Cortes Department. The victim alleged that at least one of the officers stated that she was "getting what she deserved" for participating in something in which she should not have been involved. At year's end the Office of the Special Prosecutor for Human Rights in San Pedro Sula was investigating the incident.

On October 7, a member of the security forces reportedly beat on the head, kicked, and shot and injured with rubber bullets 18-year-old Garifuna Luis Norales during an anticoup political demonstration in Tegucigalpa. After hospital treatment for his injuries, Norales filed a complaint with COFADEH. At year's end there was no information regarding an investigation by authorities concerning the matter.

The following cases began before 2009:

On September 9, a court found Marvin Javier Martinez Bermudez and Jose Santiago Lopez Villalobo guilty of murder in the 2007 killing of Judge Alba Leticia Bueso. At year's end Martinez Bermudez and Lopez Villalobo remained in custody pending sentencing. There was no further information regarding the whereabouts of the other two suspects, Ruben Antonio Pineda Hernandez and Olvin Alexander Lopez Moreno, who remained at large.

At year's end one police officer had been charged for unlawful detention and was awaiting trial in the 2007 case against five police officers for torture and illegal detention of several members of the NGO Lesbian-Gay Rainbow Association of Comayagua.

*Prison and Detention Center Conditions.*—Prison conditions were harsh, and prison security was poor. However, there were some improvements. Human rights

groups reported that prisoners suffered from severe overcrowding, malnutrition, and lack of adequate sanitation. The ready access of prisoners to weapons and other contraband, impunity for inmate attacks against nonviolent prisoners, inmate escapes, and threats by inmates and their associates outside prisons against prison officials and their families contributed to an unstable and dangerous penitentiary system environment.

Prisoners were subject to various abuses, including rape by other inmates. Authorities did not provide adequate food or other basic necessities. Prisoners continued to escape through bribery or other means. Human rights organizations reported that prisoners were tortured or otherwise abused in, or on their way to, prisons and other detention facilities.

Prison disturbances, primarily due to harsh conditions and intergang violence, occurred in the larger facilities of San Pedro Sula, Tamara, and Choluteca. Between January and September, 30 prisoners had reportedly been killed while incarcerated, in most cases due to rival gang violence.

Prison authorities attempted to hold prisoners from rival gangs in different facilities or in different areas of the same prison to reduce intergang violence, as well as violence against nongang inmates.

Persons with mental illnesses, as well as those with tuberculosis and other infectious diseases, were held among the general prison population. Human rights organizations charged that prison officials used excessive force against prisoners, including beatings, as well as isolation and threats. There were credible reports that security officials condoned rapes and other physical assaults on homosexual detainees.

On January 19, the Office of the Special Prosecutor for Human Rights asked the Supreme Court for a writ of habeas corpus on behalf of women detained at the National Women's Penitentiary of Social Adaptation, based on assertions that prison officials engaged in inhumane conduct when punishing inmates. The court denied the request for a writ, based on a lack of evidence.

On March 27, authorities charged former prison directors Leonel Ramos Andino and Luis Trochez Pineda with abuse of authority relating to a 2007 incident in which Andino and Trochez Pineda reportedly authorized extended permission for prisoners to leave the Marco Aurelio Soto National Penitentiary. At year's end there were no developments regarding the case.

On April 20, prisoners exploded a grenade at the Marco Aurelio Soto National Penitentiary, killing three inmates and injuring 16 others. At year's end there were no developments regarding the case.

Several prison officials, including Wilfredo Maradiaga Oseguera and Aldo Rodolfo Oliva Rodriguez, were under investigation for abusing their authority and permitting prisoners illegal furlough privileges. At year's end there were no developments regarding the investigation.

There was one juvenile prison in Tamara that operated under the supervision of the Honduran Institute of the Child and Family. During the year the Tamara facility held 76 male and 21 female juvenile inmates.

Female prisoners generally were held in separate facilities under conditions similar to those of male prisoners but, unlike their male counterparts, did not have conjugal visit privileges. At certain lower-security prisons, women were held with the general population. Children up to age two were permitted to stay with their mothers in prison. Pretrial detainees generally were held together with convicted prisoners. Minors were sometimes held together with adults.

Prison overcrowding remained a problem. Judges tended to place minors in detention centers in the absence of other educational or reform programs. The government generally permitted prison visits by independent local and international human rights observers, and such visits occurred during the year. The International Committee of the Red Cross (ICRC) visited prisons and jails during the year. These visits were in accordance with ICRC standard procedures and practices.

In 2008 the Ministry of Security undertook a major prison reform program involving the construction of new facilities to reduce overcrowding, separate the most dangerous prisoners from nonviolent offenders, and promote rehabilitation. Authorities moved 400 prisoners from a 90-inmate capacity facility into a new prison in Julticalpa, Olancho, which had a 600-inmate capacity. The Office of the Director of the National Women's Penitentiary developed in 2008 a modern inmate classification and evaluation system and used NGO support for rehabilitation and education programs. The reforms reportedly reduced violence within the women's facility.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, but authorities at times failed to enforce these prohibitions effectively. At times police arrested persons based on factors such as forms of dress, types of tattoos, and political beliefs.

There were allegations of arbitrary arrest and detention in connection with the June coup. Between June 28 and October, the Office of the Special Prosecutor for Human Rights in San Pedro Sula filed charges against police officers in four cases involving unlawful detention, abuse, and in one case, torture.

On June 30, the de facto regime instituted decree 011-2009, which establishes curfew hours; substantially restricted freedom of assembly, association, and movement; and permits police to arrest and detain for 24 hours persons found in public places and to search homes without warrants. On September 26, the de facto regime enacted decree 016-2009, which substantially restricts freedom of expression, assembly, and movement. On October 17, the de facto regime abrogated decree 016-2009. Decree 011-2009 remained in force at year's end.

During its August 17-21 visit, the IACHR delegation found a number of human rights abuses, including a pattern of disproportionate use of force by government security forces and arbitrary detentions. The delegation reported receiving information asserting that between June 28 and August 21, the security forces arbitrarily detained between 3,500 and 4,000 persons during anticoup demonstrations. The HNP reported that between June 29 and August 15, it arrested 213 persons for crimes committed during political demonstrations and that 37 of those arrested were indicted for various offenses, including sedition, terrorism, illicit demonstration, and vandalism.

The HNP reported that between June 29 and August 1, it arrested 3,430 persons for curfew violations. Although some persons were charged with acts of vandalism, in many cases security forces reportedly did not provide due process and arrested persons without probable cause. Amnesty International and other human rights organizations reported that some arresting officers told detainees that they had been arrested and detained for their political views.

On September 11, authorities arrested in La Ceiba and charged with sedition congressional candidate Rene Chavez, reportedly for participating in anticoup protests. A few days later a judge dropped all charges and released Chavez.

On September 22, security forces reportedly arrested approximately 150 anticoup protestors near the Embassy of Brazil for violating a curfew and detained them at the Chochi Sosa stadium in Tegucigalpa. However, police records did not indicate that any of the persons detained at the stadium had been formally arrested, and all 150 detainees were released within 24 hours of their arrest.

There were no further developments in the investigation of the September 2008 unlawful detention of Mario Alvarez, Nelson Alvarez, Heliodoro Amador, and Alonso Andino, land-rights activists with the Union and Strength Campesino Association in the town of Suntule, Francisco Morazan Department.

*Role of the Police and Security Apparatus.*—The Ministry of Security oversees police operations, including those of the HNP, Criminal Investigation Division (DGIC), Transit Police, Frontier Police, Tourist Police, and Prison Police. Corruption and impunity were serious problems within the security forces.

The Office of Internal Affairs in the Ministry of Security (IA) is charged with investigating allegations of illegal activities committed by members of the police. However, the IA's effectiveness in vetting officers was substantially impeded following the June coup. The HNP and the DGIC each have an office of professional responsibility that conducts internal reviews of police misconduct.

On July 23, the de facto regime implemented executive decree 001-2009, which remained in effect at year's end, that requires the Ministry of Defense and the army and all its personnel and resources to assist the HNP to prevent, control, and fight against crime, including detaining protesters committing illegal acts, as determined and ordered by either a prosecutor or judge with the intention of protecting individuals and property. The Public Ministry had difficulty investigating security force abuses because in many cases, police were tasked with investigating crimes committed by fellow officers.

At year's end there was no information regarding any investigation of a September 2008 incident during which two plainclothes police officers, who had infiltrated an Autonomous National University of Honduras union meeting, were carrying a list of civil society leaders identified as "dangerous." The list included the crossed-out name of slain labor leader Altagracia Fuentes with the written word "dead" next to her name (see section 7.a.).

During the year the National Police Academy provided 60 hours of human rights training to all active police officers. Before the June coup, the Ministry of Security coordinated with civil society groups to train police and prison officials on human rights. There was no information available regarding police training following the June coup.

Gang violence and intimidation, notably on public transport, remained serious problems and led the government to station security officers on many public buses. Sometimes police lethally targeted youth and minors, often with impunity.

*Arrest Procedures and Treatment While in Detention.*—Prior to the June coup, the law provided that police could arrest a person only with a court order, unless the arrest is by order of a prosecutor, made during the commission of a crime, made when there is strong suspicion that a person has committed a crime and may try to evade criminal prosecution, or made when the person is caught with evidence related to a crime. The law prior to the coup required police to inform a person of the grounds for arrest and bring a detainee before a competent authority within 24 hours. The prosecutor had 24 hours to decide if there was probable cause for an indictment, and a judge then had 24 hours to decide whether to issue a temporary detention order that could last up to six days, by which time the judge had to hold a pretrial hearing to examine probable cause and make a decision on whether pretrial detention should continue. The law provided for bail for persons charged with felonies and the right of prisoners to prompt access to family members. Although the law also provided for prisoners to have the right of prompt access to a lawyer of their choice and, if indigent, to state-provided counsel, these requirements were not always followed.

On June 30, the de facto regime enacted decree 011-2009 that suspends a number of civil rights during curfew hours and permits police to arrest and hold for 24 hours persons found in public places after curfew. On September 26, the de facto regime enacted decree 016-2009 permitting detention of persons who violated curfews or whom the police and military suspected had injured persons, damaged property, or joined together to plan unlawful activities (see section 1.d.).

Lengthy pretrial detention was a serious problem. The law mandates the release from prison of any detainee whose case has not come to trial and whose time in detention exceeds the maximum prison sentence for the crime of which he is accused. Judicial inefficiency and corruption and lack of sufficient resources delayed proceedings in the criminal justice system.

As a result of trial delays, many pretrial detainees already had served time in prison equivalent to the maximum allowable for the crime for which they were accused. Many prisoners remained in jail after being acquitted or having completed their sentences due to the failure of officials to process their releases.

*e. Denial of Fair Public Trial.*—Although the constitution and the law provide for an independent judiciary, the judicial system was poorly funded and staffed, inadequately equipped, often ineffective, and subject to patronage, corruption, and political influence.

Low wages and lack of internal controls rendered judicial officials susceptible to bribery, and powerful special interests exercised influence in the outcomes of court proceedings.

The criminal court system is made up of 12 appeals courts, 77 courts of first instance with general jurisdiction, and 330 justice of the peace courts with limited jurisdiction. The Supreme Court of Justice names all lower court judges.

Judges allegedly were subject to administrative punishment, including loss of pay, and changes in position due to their political beliefs and legal decisions. On August 16, Tegucigalpa criminal court judge Maritza Arita reported that her supervisors ordered her to take 15 days of unrequested paid vacation after she provisionally released three demonstrators who had been arrested on charges of vandalism and terrorism during an August 11 anticoup demonstration. In September authorities transferred Arita to work at a civil court, and she reportedly received death threats in relation to her August provisional release decision.

*Trial Procedures.*—The law provides for the right to a fair public trial, permits defendants to confront or question witnesses, present witnesses and evidence on their behalf, and provides defendants access to government-held evidence relevant to their cases. Although the law recognizes that the accused is presumed innocent and has the right to an initial hearing by a judge, to bail, to consult with legal counsel in a timely manner, to have a lawyer provided by the state if necessary, and a right to appeal, these rights frequently were not observed.

Although the law prohibits cases from proceeding where a suspect lacks legal representation, the government allocated minimal resources to the prosecutors. As a result the public defender was not able to meet the demand for legal assistance to those unable to afford representation.

Throughout the year common challenges to criminal prosecutions included a lack of credible evidence presented by the prosecution, lack of witness protection, widespread public distrust in the legal system, and judicial corruption.



On June 28, military officials and police executed a Supreme Court-issued sealed arrest warrant against President Zelaya, ordering the president to be detained and placed before a judge. However, the military forcibly placed the president on an aircraft and flew him into exile without the right to a public trial or self defense. On June 29, the de facto regime forcibly removed from the country Foreign Minister Patricia Rodas (see section 2.d.).

*Political Prisoners and Detainees.*—There were reports of arbitrary detentions for political reasons following the June coup. At year's end there was no information regarding the number of political detainees or whether the de facto regime permitted access to such persons on a regular basis by international humanitarian organizations.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, including access to a court to seek damages for a cessation of a human rights violation. A litigant can bring such charges when the criminal court determines that damages may be sought.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—Although the constitution and law generally prohibit such actions, a legal exception allows entry into a private residence at any time in the event of an emergency or to prevent the commission of a crime. There continued to be credible charges that police occasionally failed to obtain the required authorization before entering a private home.

On June 30, the de facto regime enacted decree 011-2009, which permits police to search homes without warrants during curfews, and on September 26 enacted decree 016-2009, which also limited the right to privacy (see section 1.d.).

On July 13, Liberal Party Congresswoman Margarita Zelaya reported that military officers entered her home without a search warrant. Zelaya alleged that the de facto regime undertook this action to intimidate her because she was the cousin of President Zelaya. At year's end there were no further developments regarding an investigation.

Garifuna and other ethnic minority rights leaders continued to complain that the government failed to redress previous actions by private and public security forces that dislodged farmers and indigenous groups who claimed ownership of lands based on land reform laws or ancestral titles to property (see section 6).

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

*a. Freedom of Speech and Press.*—The constitution and the law generally provide for freedom of speech and of the press. However, particularly following the June coup, there were reports of government intimidation of journalists, government takeovers of television transmission frequencies, and journalistic self-censorship.

Following the June coup, the de facto regime used decrees and other measures to restrict freedom of expression. The IACHR reported that through these measures the de facto regime engaged in serious restrictions on freedom of expression, which generated an atmosphere of intimidation. Although there were no reports that international media were prohibited from operating freely, international news channels using cable service providers experienced transmission interruptions following the June coup, particularly when broadcasting communications by President Zelaya or members of his administration.

A small number of powerful business magnates with intersecting commercial, political, and family ties owned most of the country's news media. The government and, following the June coup, the de facto regime influenced media coverage by granting or denying access to government officials, which linked the media to the political system and increased the influence of newspaper owners on the news agenda and political decisions.

On February 1, police detained La Tribuna newspaper reporter Martin Ramirez after he took photographs at the scene of an automobile accident. On May 27, a judge issued arrest warrants and charged officers Dora Elvira Rivera Zuniga, Leonardo Rerrufino, and Walter Castellanos of DGIC with illegal detention and abuse of authority for detaining Ramirez. The three officers were later released on bail and at year's end were awaiting trial.

On March 31, unknown actors in San Pedro Sula fatally shot Radio Cadena Voces correspondent Rafael Munguia while he was in his automobile. Human rights organizations alleged that he was killed for his reporting on gangs and organized crime. At year's end an investigation continued.

On April 12, unknown gunmen attempted to kill reporter and owner of television station Telemaya Channel 12 Carlos Roberto Chinchilla near San Nicolas, Copan. In 2008 masked gunmen made death threats against Chinchilla and his camera-

man, Marlon Dubon, warning them to leave San Nicholas or be killed. At year's end an investigation continued.

Following the June coup, there were violent acts and other forms of intimidation against media outlets and journalists, including the following:

On June 28, the military entered the offices of Cable Color, Channel 8, television stations Channel 11 and Channel 36, and radio stations Radio Progreso and Radio Globo and censored or blocked their transmissions. Most of these stations were able to resume broadcasting within three or four days. Unknown actors made threats against Radio Globo, and on August 23, masked individuals poured a corrosive chemical on the transmission equipment of Radio Globo and Channel 36. On September 28, the de facto regime closed Radio Globo and Channel 36, pursuant to decree 016-2009 restricting freedom of expression and other civil liberties. The security forces confiscated and damaged transmission and other equipment at both stations. Radio Globo and Channel 36 were allowed to reopen on October 17, after the de facto regime abrogated decree 016-2009 (see section 1.d.). A Public Ministry investigation regarding the legality of the decree and the security force's actions against Radio Globo was pending at year's end.

On June 30, unknown actors threw a grenade at the offices of Radio America in Tegucigalpa. On July 8 and 16 and August 31, unknown actors cut Radio America transmission wires in Tegucigalpa, Marcala, and Olanchito.

On July 3, two masked assailants in Atlantida Department fatally shot radio journalist Gabriel Fino Noriega. On July 22, the Office of the National Commissioner for Human Rights reported that the killing was not related to political unrest arising out of the coup. Human rights NGOs alleged, however, that prior to his killing Fino received death threats for covering anticoup activities. The Office of the Special Prosecutor for Human Rights was conducting an investigation at year's end.

On July 4, unknown actors threw grenades at the office of Channel 11 and the national newspaper *El Tiempo* in San Pedro Sula. On July 5 and September 12, unknown perpetrators threw incendiary devices at the offices of Channel 11. On November 4, unknown actors threw a hand grenade onto the roof of the Honduran Radio Network building in Tegucigalpa. One journalist was injured by the explosion.

In July Carlos Mauricio Flores, an editor for *El Herald* newspaper, which disseminated reports supporting the de facto regime, received a death threat via text message. On August 15, unidentified perpetrators attacked with five molotov cocktails the Tegucigalpa office of *El Herald*. There was no information available regarding any investigations of these incidents.

On October 5, the de facto regime published executive agreement 124-2009, which permits the National Telecommunications Commission (CONATEL) to revoke or cancel the permits or licenses for media that broadcast messages that defend national hate, damage to property, or social anarchy against the democratic state. At year's end decree 124-2009 remained in force.

On December 5, two masked persons entered an Internet cafe where *El Libertador* newspaper was operating temporarily in Tegucigalpa, threatened employees with firearms, and took a computer and camera. There was no information available about an investigation of this incident.

On December 9, the IACHR expressed "deep concern regarding the constant interferences against the transmission" of Channel 36 during its main news program, noting it was the sixth occasion the commission had publicly complained about "different attacks against journalists and media outlets" in the country.

On December 15, unknown assailants shot at the automobile of pro-coup television journalist Karol Cabrera, killing her 16-year-old pregnant daughter Catherine, who was a passenger, and Catherine's unborn child. At year's end authorities were conducting an investigation of the incident.

On December 15, the Special Prosecutor for Human Rights filed an indictment with the Supreme Court to bring charges against de facto regime head of CONATEL Miguel Rodas and others for abuse of authority in relation to the September 28 forced closure of Channel 36 and Radio Globo. At year's end the case was proceeding. Channel 36 continued to experience unknown signal interference for the remainder of the year.

Before the June coup, the government gave substantial sums of money to selected members of the media who covered their stories in the manner they requested. The de facto regime reportedly continued this practice. The government exerted considerable influence on the print media through granting or withholding publicly funded official advertisements.

The news media continued to suffer from venality, politicization, and outside influence. According to NGOs, high-ranking officials obtained press silence through hiring journalists as public affairs assistants at high salaries and paid journalists to investigate or suppress news stories.

Some media members claimed that when they attempted to report in depth on national politicians or official corruption, they were occasionally denied access to information by the government and, after the June coup, the de facto regime.

On June 9, a court released German David Almandarez, citing insufficient evidence after he served 11 months in prison for the 2007 killing of Radio Cadena Voces journalist Carlos Salgado.

On February 12, a court sentenced Walter Urbina and Edgardo Zuniga Salgado to 17 years in prison for their role in the 2001 death of journalist Aristides Soto.

*Internet Freedom.*—Prior to the June coup, there were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. In general individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Following the June coup, media outlet Radio Globo reported that its Web site was taken offline on a number of occasions. There were approximately nine Internet users per 1,000 inhabitants, and lack of infrastructure in rural areas greatly limited access for many persons.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, which the government of President Zelaya generally respected.

The de facto regime issued decrees 011-2009 and 016-2009, with the effect of substantially restricting the right of peaceful assembly, association, and movement (see section 1.d.). International human rights organizations asserted that both decrees violated the constitution.

Although most political protests following the June coup were reportedly peaceful, some protests ended violently. The HNP stated that between June 29 and August 15, 11 police officers and 18 members of the military were injured due to confrontations with anticoup demonstrators. Demonstrations involved rock throwing, burning of tires, and vandalism of businesses. Other general violence following the June coup included the detonation of small explosive devices at the bar association, and the headquarters of the Liberal Party and the pro-Zelaya Popular Bloque movement.

There were a number of reported cases where the de facto regime used excessive force to impede freedom of peaceful assembly. For example, NGOs alleged that during a July 24 anticoup demonstration at the Las Manos border crossing, security forces used disproportionate force to quash the protest. Herman Valladares reported to the IACHR delegation that police physically assaulted him while he was protesting peacefully at the Las Manos demonstration. At year's end there were no further developments regarding an investigation.

On August 12, anticoup protesters kicked, pushed to the ground, and verbally assaulted pro-coup Third Vice President of the National Congress Ramon Velasquez Nazar as he exited the Congress. During subsequent clashes between police and demonstrations that same day, anticoup Congressman Marvin Ponce's suffered a broken arm.

On September 21, HNP and military forces reportedly injured 30 demonstrators while removing with force between 500 and 1,000 anticoup protesters in front of the Embassy of Brazil in Tegucigalpa, where President Zelaya had taken refuge. On September 22, the IACHR stated that it "strongly condemns the excessive use of force in the repression of protests" that occurred near the embassy.

*Freedom of Association.*—The constitution and the law generally provided for freedom of association, and prior to the June coup the government of President Zelaya generally respected this right in practice. The criminal association law, however, prohibits illicit association and prescribes prison terms of three to 12 years. For several years, human rights organizations continued to criticize the law and its implementation as an undue restriction on the right to associate freely. Gay-rights advocacy groups expressed concerns that the law could be used to criminalize social activities and organizations of the sexual minority community. The government used criminal code reforms outlawing illicit association to arrest and take land away from suspected gang members, farmers, and persons from indigenous communities.

Decree 011-2009 suspends freedom of association under penalty of arrest during curfew hours. Decree 016-2009, implemented on September 17, placed severe restrictions on freedom of assembly (see section 1.d.).

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the government generally respected this right in practice. The government requires foreign missionaries to obtain entry and residence permits.

*Societal Abuses and Discrimination.*—There were reports of discrimination or violence against religious groups, including anti-Semitic acts. On July 4, Roman Catho-

lic Cardinal Oscar Rodriguez reported that after publicly suggesting that the June coup was a constitutional transfer of power, unknown actors made threats against his life and threatened to burn down the cathedral in Tegucigalpa. Demonstrators painted political graffiti on the walls of church property. Auxiliary Bishop Juan Jose Pineda Fasquelle reported that after the Catholic Bishops Conference issued a July 4 pastoral letter regarding the June coup, unknown actors made 47 death threats against him.

On September 25, journalist David Romero asserted on a Radio Globo transmission that Israel and the Jews had supported the coup and that Hitler should have been allowed to “finish his historic vision.” Romero later told media that his comments were in error, that they did not reflect his actual views, and that his grandfather was Jewish. Radio Globo owner Alejandro Villatoro stated that he would not take action against Romero in relation to the anti-Semitic statements because there was no law to punish those comments. President Zelaya issued a public statement that he respected all religions. The de facto regime did not make a statement regarding Romero’s comments. In response to concerns about the safety of their members, the Jewish community, which numbered approximately 1,000 persons, constructed a protection wall around the San Pedro Sula synagogue.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The de facto regime implemented several decrees that limited movement within the country.

Prior to the June coup, the government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of interest. There was no information available about the de facto regime’s cooperation with the UNHCR.

The constitution prohibits forced exile. On June 28, the military removed President Zelaya from his home and forced him into exile in Costa Rica. On June 29, the military forced Foreign Minister Patricia Rodas to board an aircraft and transported her to exile in Mexico.

On July 5, President Zelaya attempted to return to the country by aircraft; however, the military placed obstacles on the runway at Toncontin Airport and prevented his landing.

On July 24, the military set up approximately 20 checkpoints between the city of El Paraiso and the Las Manos border crossing into Nicaragua and reportedly prohibited demonstrators from leaving the border area during a 24 hour curfew.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its laws provide for the granting of asylum or refugee status, and prior to the June coup, the government had established a system for providing protection to refugees. In practice the government of President Zelaya provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.

At year’s end there was no information available regarding the government detention in November 2008 of eight South African citizens holding false passports, who later filed for asylum.

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

The constitution and law provide citizens with the right to change their government peacefully. Prior to the June coup, citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage. The law does not permit active members of the clergy and of the military and civilian security forces to vote. On June 28, the military and police executed a Supreme Court-issued sealed arrest warrant against President Zelaya, ordering the president to be detained. Military officials and police forcibly placed the president on an aircraft and flew him into exile without the right to a public trial or right to self defense. On June 28, the Congress named Congress President Roberto Micheletti as the new leader of the country. The action in Congress was based on a resignation letter by President Zelaya that he denied signing.

*Elections and Political Participation.*—On November 29, voters elected Porfirio Lobo of the National Party for a four-year presidential term, in elections that were considered by international observers to be generally free and fair. Security forces

broke up an anticoup protest on November 29, but there were no reports of widespread violence or that voters were unable to cast ballots or intimidated.

There were some reported instances of violence in the weeks leading up to the November elections. For example, on September 6, security forces reported that a number of persons were detained or injured during a protest at a public appearance by liberal party presidential candidate Elvin Santos. However, presidential candidates generally were able to campaign freely.

Political parties could operate without restriction or outside interference. Women participated actively in politics. Women held 31 of 128 seats in the National Congress. Twenty-seven women were alternate members of congress. Five women sat on the 13-member executive board of congress, and 16 women presided over congressional committees. Prior to the June coup, there were three female secretaries of state; 10 women holding positions as ministers, directors, or representatives of executive-level departments; one female general police commissioner; and five female ambassadors.

There were two Garifuna and one Lenca members of the National Congress.

In the month before the June coup, there was significant controversy over the legality of a public opinion poll proposed by the executive branch that would have asked whether in the general elections a question would be added about holding a constituent national assembly to produce a new constitution. Some groups believed that the constituent assembly was unconstitutional and represented a means for President Zelaya to eliminate constitutionally mandated term limits and remain in office beyond his four-year term. On May 28, the Office of the National Commissioner of Human Rights publicly denounced efforts by the executive branch to obligate each civil service employee to gather 40 signatures in favor of the public opinion poll. Also on May 28, an administrative court judge abrogated the president's decree ordering the June 28 public opinion poll. The judge instructed all government agencies to suspend all publicity and logistical activities associated with the poll. This decision was upheld by an appellate court ruling on June 16 and the Supreme Electoral Tribunal on June 25.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for corruption; however, the government of President Zelaya did not implement the law effectively, and officials engaged in corrupt practices with impunity. The World Bank's governance indicators reflected that government corruption was a serious problem. Governmental institutions were subject to corruption and political influence.

There was a widespread perception that the country's anticorruption institutions had not taken the steps necessary to combat corruption and were unwilling or lacked the professional capacity to investigate, arrest, and prosecute those involved in high-level corruption. The law provides criminal penalties for corruption; however, the government of President Zelaya did not implement the law effectively, and officials engaged in corrupt practices with impunity.

Following the June coup, the de facto regime actively sought to bring corruption charges against President Zelaya and members of his administration. There was no information available regarding the status of corruption during the period of the de facto regime.

Individuals engaged in detecting corruption faced intimidation. On April 6, the IACHR requested that the government take all measures necessary to protect the life of Ines Yadira Cubero Gonzalez, the victim of a March 16 attempted shooting, reportedly due to her work as president of the Commission of Transparency and Anticorruption in San Pedro Sula. The IACHR issued the request because the government had not provided protection to Cubero Gonzalez, even though she had requested protection and reported the March 16 incident to the Office of the Public Prosecutor.

On July 2, authorities arrested Marcelo Chimirri, the former head of the state-owned telephone company, Hondutel, and charged him with embezzlement involving alleged bribes paid to Hondutel officials. On August 22, authorities brought corruption charges against Hondutel auditor Jose Daniel Flores. At year's end the cases against Chimirri and Flores continued.

On July 5, the Public Ministry issued an arrest warrant for the Zelaya administration's secretary of the presidency, Enrique Flores Lanza, charging him with abuse of authority for allegedly withdrawing on June 24, 40 million lempiras (\$2 million) from the central bank. On July 5, the Public Ministry issued an arrest warrant for Edwin Araque, president of the Central Bank under President Zelaya, for usurping a government position in relation to Flores Lanza's alleged June 24 withdrawal of funds.

On July 22, a judge issued arrest warrants for Zelaya administration Executive Vice President Aristides Mejia, Finance Minister Rebeca Santos, and head of the state energy company Rixi Ramona Moncada Godoy. The three were charged with abuse of authority relating to allegations of an unlawful contract for a new building for the energy company. At year's end there was no further information available regarding this case.

Prior to the June coup, the government allowed access to public information for citizens and noncitizens, including foreign media through the Institute for the Access to Public Information (IAIP), which operated a Web site for citizens to request information from government agencies. On March 13, *El Heraldo* reported that IAIP was attempting to ensure the executive branch posted public financial information on its Web site as required under the transparency and access to information law.

On January 6, the Public Ministry announced it had reopened the April 2008 case involving a network trafficking Cuban immigrants through the country. At year's end authorities had not made any arrests or announced any suspects.

There was no further information regarding any developments in the August 2008 corruption case of Guillermo Seaman, who was awaiting trial on charges of approving fraudulent airline employee certifications.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups operated in the country, investigating and publishing their findings on human rights cases. Prior to the June coup, government officials generally cooperated with NGOs and, with certain notable exceptions, were usually responsive to NGO views.

On August 11, police detained human rights advocate Alex Matamoros after he attempted to speak to police about the arrest of student Jose Elcer Sabillon during an anticoup protest. On August 12, police released Matamoros without charges.

On August 12, civil society groups alleged that a member of the security forces hit with a baton and threw to the ground human rights defenders Dina Meza and Leyla Elisa Diaz, who were filming the arrest of an anticoup protester in front of the congress building in Tegucigalpa.

There was no further information regarding the April 2008 killing by unidentified gunmen of Luis Gustavo Galeano Romero, an educator and promoter for the Tocoa, Colon Department, delegation for CONADEH.

On March 19, a Tegucigalpa court sentenced Cesar Damian Amador and Ramon Eusebio Solis to 21 years each for the 2006 murder of Association for a More Just Society lawyer Dionisio Diaz Garcia.

In July the IACHR criticized the forced removal and exile of President Zelaya and the forced exile of Foreign Minister Patricia Rodas. The commission expressed serious concern about the de facto regime's implementation of an executive decree limiting freedom of movement, assembly, and expression during curfew hours. The commission also called on the de facto regime to provide precautionary measures to protect 50 persons, including Foreign Minister Patricia Rodas.

Following its August visit to the country, the IACHR delegation issued an interim report documenting a number of human rights violations, including disproportionate use of force by police, arbitrary detention of thousands of persons, arbitrary application of curfew hours, and violations of freedom of expression. The delegation called particular attention to deaths reportedly associated with the political crisis. On August 21, the de facto regime reportedly stated that the IACHR interim report contained "no big surprises."

CONADEH was headed by Human Rights Commissioner Ramon Custodio Lopez. The commissioner reportedly had open access to all civilian and military institutions and detention centers. The government generally cooperated with the commission but allocated inadequate financial or other resources.

Following the June coup, Custodio reportedly was reluctant to call for investigations of human rights violations allegedly committed by the de facto regime. During the year CONADEH issued a number of press releases on various topics, including political statements relating to the June coup. The NGO Center for Investigation and Promotion of Human Rights and other human rights groups expressed dissatisfaction with CONADEH's work. On July 1, a number of lawyers signed and circulated a public letter asking the Ibero-American Federation of Ombudsmen to investigate Commissioner Custodio's handling of human rights allegations following the June coup. By contrast, on August 21, a pro-de facto regime civic group, Alliance for Honduras in Peace and Democracy, placed a full-page newspaper advertisement in *La Tribuna* praising Custodio's human rights work.

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

The law prohibits discrimination based on race, gender, disability, language, or social status; however, in practice it was not effectively enforced. Political, military, and social elites generally enjoyed impunity under the legal system. Women suffered social and economic discrimination and, along with other vulnerable groups, experienced an erosion of human rights protections following the June coup.

*Women.*—The law criminalizes all forms of rape, including spousal rape. With the exception of spousal rape, which is evaluated on a case-by-case basis, rape is considered a public crime. A rapist can be prosecuted even if the victim does not press charges. The penalties for rape range from three to nine years' imprisonment, and the courts enforced these penalties in practice. Between January and December, the police reported receiving 1,266 cases of rape. At year's end there was no information available regarding the extent of the rape problem or the number of prosecutions or punishments.

Violence against women, including systematic killing, occurred throughout the year. The law criminalizes domestic violence with between two and four years' imprisonment. The only legal sanctions for lesser forms of domestic abuse are community service and 24-hour preventive detention if the violator is caught in the act. The law provides a maximum sentence of three years' imprisonment for disobeying a restraining order connected with the crime of intrafamilial violence. The National Violence Observatory at the National Autonomous University reported that through September there were 289 killings of women, compared with 269 reported between January and September 2008.

The IACHR delegation reported that following the June coup, some members of the police and military subjected women detained at political demonstrations to groping, verbal, sexual insults, beatings, and other forms of abuse and intimidation. The NGO Center for Women's Rights asserted that many of the victims were afraid or reluctant to press charges due to a lack of trust of the judicial system and police. By year's end the prosecutor was investigating at least one reported case of rape by police, which allegedly was related to the victim's anticoup activities (see section 1.c.).

The government of President Zelaya and the de facto regime did not enforce the law effectively with regard to domestic abuse. The Public Ministry stated that domestic violence accounted for most of the complaints it received.

Between January and May, the Public Ministry received more than 2000 complaints of domestic abuse. The Special Prosecutor for Women's Issues reported that between January and March, it had received 57 cases of violent deaths of women.

The government of President Zelaya worked with CARE and other NGOs to provide specialized training to police officials on enforcing the law relating to domestic violence. During the administration of President Zelaya, two facilities operated by NGOs provided shelter for battered women. The shelter in Tegucigalpa could accommodate 20 women and their families. Additionally, six other private centers for battered women offered legal, medical, and psychological assistance. There were 15 civil society NGOs grouped under the Women's Collective against Violence involved in combating violence against women. There was no information available during the period of the de facto regime regarding the operation of shelters.

Although adult prostitution is legal for adults over the age of 18 and relatively widespread, the law prohibits promoting or facilitating prostitution. Women were trafficked for sexual exploitation and debt bondage.

The law prohibits sexual harassment in the workplace and provides penalties of one to three years' imprisonment. Sexual harassment continued to be a problem, but the government did not effectively enforce the law.

Couples and individuals had basic rights to decide freely and responsibly the number, spacing, and timing of their children. Information about access to contraception was widely available, and access to contraception was free from discrimination, violence, and coercion. Skilled attendance, including essential obstetric and postpartum care, during childbirth was available only to those that could afford it. There was no known difference in access of men and women to diagnosis and treatment for sexually transmitted infections, including HIV.

Although the law accords women and men equal rights under the law, including property rights in divorce cases, in practice women did not enjoy such rights.

Most employed women worked in lower-status and lower-paid informal occupations, such as domestic service, without legal protections or regulations. Women were represented in small numbers in most professions, and cultural attitudes limited their career opportunities. By law women have equal access with men to educational opportunities. The law requires employers to pay women equal wages for equivalent work, but employers often classified women's jobs as less demanding

than those of men to justify women's lower salaries. Despite legal protections against lower wages based on gender, workers in the textile export industries continued to report that they were required to take pregnancy tests as a condition for employment.

The National Institute for Women develops government policy on women and gender. Several NGOs actively addressed women's issues, including the Center for the Study of Women-Honduras, which dealt with trafficking in persons, commercial sexual exploitation, garment factory employees, and domestic workers.

*Children.*—Birth registration was widely available. Under the constitution citizenship is derived by birth within the territory, from one's parents, or by naturalization.

Child abuse was a serious problem. The law establishes prison sentences of up to three years for persons convicted of child abuse. There was no information available regarding the number of reported cases of child abuse.

Abuse of youth and children in poor neighborhoods remained a serious problem. Police, gangs, and members of the general population engaged in violence against poor youth and children. Human rights groups alleged that individual members of the security forces and civilians used unwarranted lethal force against supposed habitual criminals or suspected gang members, as well as against other youths not known to be involved in criminal activity. Casa Alianza reported two cases of cruel treatment of minors by police. At year's end authorities were investigating the cases.

Trafficking in children for commercial sexual exploitation and child prostitution were problems. Penalties for facilitating prostitution are between nine and 15 years in prison and a fine ranging between 50,000 lempiras and 100,000 lempiras (\$2,360 to \$5,290). The penalty increases by half if the victim is less than 18 years of age. There is no statutory rape law, but the penalty for rape of a minor under the age of 12 is between 15 and 20 years in prison and between nine and 13 years if the victim is age 13 or older. The law prohibits the use of children less than 18 years old for exhibitions or performances of a sexual nature and in the production of pornography.

The law outlaws illicit associations, including gang and organized crime membership, for which it prescribes prison terms ranging from three to 12 years. Year-end statistics indicated that there were approximately 36,000 gang members, many of them minors. Gang membership was primarily confined to the Tegucigalpa and San Pedro Sula areas.

Children's rights organizations estimated that there were 20,000 street children, only half of whom had shelter, and that a majority of street children used illegal substances, including glue inhalants and marijuana. Many street children were sexually molested or exploited.

The municipal administration of Tegucigalpa operated 12 temporary shelters with a capacity for 240 children. Casa Alianza operated three shelters (with a capacity for 175 children) for victims of commercial sexual exploitation, street children, and children with substance abuse problems. The NGO Feed the Children operated a shelter for 40 boys in La Ceiba. Casa Alianza estimated that 73 formerly trafficked girls (ages 12-17) stayed at their shelters and participated in recovery programs. Forty-six had been trafficked internally, and 27 had been trafficked outside the country. Casa Alianza provided assistance to approximately 2,560 children, attempting to reintegrate as many as possible with their families. Other private organizations and the government agency National Institute of Children and the Family (IHNFA) centers also housed street children and cared for approximately 2,500 children.

*Trafficking in Persons.*—Although the law criminalizes trafficking in persons for all purposes, there were reports that persons were trafficked from, through, and within the country.

The country was principally a source and transit country for women and children trafficked for the purpose of commercial sexual exploitation. Women and children were trafficked to Belize, El Salvador, Guatemala, Mexico, and also internally, most often from rural to urban settings. Most foreign victims trafficked into Honduras came from neighboring countries.

Prior to the June coup, the director of IHNFA estimated that more than 10,000 children were at risk for sexual exploitation, of whom 98 percent were girls. In the Tegucigalpa metropolitan area, an estimated several hundred children were victims of commercial sexual exploitation during the year. There was no information available regarding the status of at-risk children during the period of the de facto regime.



Gangs, organized crime, and human smugglers were reportedly among the principal traffickers for purposes of commercial sexual exploitation. There were reports that families sold their daughters for purposes of trafficking. Additional reports indicated that entrepreneurs used the promise of lucrative job offers abroad and in urban areas of the country as a means to trap victims. There were reports that victims of sexual exploitation by organized crime in Guatemala recruited new victims in Honduras. International trafficking was undertaken by land; the government maintained control of the country's land borders only at specific crossings. Trafficking was conducted using valid and forged documents.

At year's end there was no further information available about the February 2008 case against Emilio Fiallos Pina and his wife Dora Rutilia Saucedo Fiallos, who were arrested for allegedly selling their nine-year-old daughter to attorney Conrado Zelava Castellon for sexual exploitation.

The law sets penalties and defines offenses related to trafficking, including incest, lechery, abuse, prostitution, pornography, and knowingly infecting someone with HIV/AIDS. Punishments include fines ranging from 100,000 lempiras to 500,000 lempiras (between \$5,300 and \$26,500) and imprisonment between four and 20 years. The law was not enforced effectively. Inadequate government funding to combat trafficking, corruption, and routine dismissal of government employees limited the government's ability to address trafficking. In the Special Prosecutor's Office for Children in Tegucigalpa, antitrafficking responsibilities are assigned to one district attorney, one lawyer, four Public Ministry investigators, and two DGIC agents. In San Pedro Sula, two district attorneys covered trafficking issues, while one attorney did so in Choluteca.

The Division Against Abuse, Trafficking, and Commercial Sexual Exploitation, a unit of the criminal investigative police, conducted detection operations throughout the country, including on highways, at airports and ports, and in hotels.

By year's end the Public Ministry had prosecuted 26 trafficking and commercial sexual exploitation cases, had obtained 11 convictions, and was investigating another 82 cases. The ministry did not report separate statistics for trafficking cases.

On January 27, the Foreign Ministry announced it had discovered that 18 Hondurans who had been trafficked for labor exploitation in Romania, where employers had confiscated their passports, provided substandard living quarters, and refused to pay them. At year's end there was no further information available regarding the case.

On April 15, police arrested Olga Marcia Salvador Sanchez in Cofradia, Cortes Department, and charged her with trafficking for prostitution a 14-year-old girl from Guatemala. At year's end the case continued.

In May police arrested and charged with aggravated human rights trafficking Avilio Gomez Sobral, Luis Enrique Soriano Mondragon, and Teodosio Guzman Pineda. The three reportedly operated an organization that trafficked women and girls from rural areas for sexual exploitation in Comayagua. At year's end there was no further information available regarding the case.

In November 2008 Blanca Azucena Merio Amador and her daughter Gloria Floriscelda Varela Amador were arrested for selling minor girls to men for sexual exploitation. They were allegedly linked to a much larger trafficking operation. While arresting the traffickers, the authorities were able to liberate one minor girl who was being sexually exploited. At year's end there was no further information available on this case.

At least four juvenile trafficking victims were referred to the International Organization for Migration (IOM) for repatriation. The IOM referred dozens of victims each month to government- and NGO-run shelters for assistance. Authorities repatriated three children from Mexico and one from Nicaragua after being trafficked for sexual exploitation.

Before the June coup the government continued antitrafficking training for police, prosecutors, judges, and students. The government also worked with NGOs and the IOM to place victims in shelters and provide them with reintegration assistance. The Intra-Institutional Task Force on Trafficking implemented a protocol for Assistance to the Victims of Commercial Sexual Exploitation, while the government's Institute for the Family focused on reintegrating child victims back into their families and society. However, the government did not provide adequate assistance to victims. The Office of the Special Prosecutor for Children reported that antitrafficking activities continued under the de fact regime.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, but the government did not adequately enforce

these provisions. Statutory provisions make it illegal for an employer to discriminate against a worker based on disability. During the year there were no known reports of discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. The law requires access to buildings for persons with disabilities. In practice few buildings were accessible, and the government did not effectively implement laws or programs to ensure such access.

The Human Rights Commission of the National Congress focused on matters of importance to persons with disabilities. Although the law requires the Ministry of Governance and Justice to maintain an office for persons with disabilities, the government did not provide funds or staff to operate the office. Before the June coup, there was a presidential commissioner for persons with disabilities. There was no information available regarding whether the position continued to exist after the coup.

In March authorities arrested former principal Melvin Alvarado Diaz after seven students at the Pilar Salinas School for the Blind accused him of sexually molesting them. At year's end Alvarado had been granted temporary release pending trial.

On April 1, the local government of Puerto Cortez opened a school specifically for children with Down's syndrome. The city already had schools for blind and deaf students.

*Indigenous People.*—Approximately 621,000 persons, constituting 8 percent of the general population, were members of indigenous and other ethnic minority groups. These groups, including the Miskitos, Tawahkas, Pech, Tolupans, Lencas, Maya-Chortis, Nahual, Bay Islanders, and Garifunas, lived in 362 communities and generally had little or no political power to make decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

Most indigenous lands were owned communally, providing land-use rights to individual members of the ethnic community. Indigenous land titles often were defined poorly in documents dating back to the mid-19th century. Lack of clear title fostered encroachment and expropriation conflicts among landless nonindigenous settlers, powerful business elites, and government entities interested in exploiting coastlines, forests, and other lands traditionally occupied or utilized by indigenous and other ethnic minority communities. Indigenous and nonindigenous communities criticized the government's alleged complicity in the exploitation of timber and other natural resources on these lands. Indigenous groups maintained that their community-based land systems more effectively protected their lands from encroachment by large land owners and outside groups engaged in illegal activities. Garifuna leaders alleged that groups engaged in drug smuggling and other contraband trafficking had illegally appropriated vast areas of their communal lands.

There were several protests by Garifuna and indigenous groups regarding land-rights disputes and perceived government discrimination. Garifuna leaders continued to petition the government before the June coup regarding their concerns about large-scale commercial development undertaken on coastal lands traditionally occupied and utilized by their communities. The government permitted tourism development by private local and foreign business interests on the disputed lands, using 100-year leases designed to revert to the Garifuna after the expiration of that period of time. Garifuna leaders continued to report to the government and NGOs harassment, threats, and assaults. There was no information available about any actions taken by the de facto regime to address Garifuna community concerns.

On April 13, approximately 3,000 members of the Maya-Chorti indigenous group closed the Mayan Ruins Archeological Park in Copan and demanded that the government comply with promises made over several years to help the group establish legal title to their ancestral lands. There was no information about any response to the Maya-Chorti demands by the Zelaya administration or the de facto regime. However, the Maya-Chorti reported that after the June coup, the de facto regime halted a land reparations program and placed bank transfer restrictions on funding for the community's educational programs.

On June 18, indigenous leader Edgardo Benitez and members of the Miskito indigenous community complained to the press that a government project to break up community land holdings and replace them with individual land titles in the departments of Gracias a Dios, Colon, and Olancho was causing environmental damage to the community's lands in the Rio Platano Biosphere Reserve.

There were no reported developments regarding an investigation or arrest of any suspects in relation to the March 2008 killing of Tolupan youths Jose Mastul and Geovanny Banegas Sevilla.

There were no reported developments in the case involving the June 2008 abduction and physical assault of Garifuna activist Santos Feliciano Aguilar Alvares by

10 private security guards employed by a real estate company in San Juan Tela, Atlántida Department.

On September 8, a court in La Ceiba acquitted military officials Marco Antonio Rodríguez, Nelson Makeny, Edgar Portillo, David Edward Wilson Tabor, and Noe Hernández Pérez Carpio in relation to the September 2008 killing of Garifuna community member Guillermo Morales Herrera in the Cuero y Salado wildlife preserve.

The Zelaya administration undertook minimal efforts to work with indigenous persons to address concerns regarding ownership and use of traditional lands. The courts commonly denied legal recourse to indigenous persons and often favored non-indigenous parties of means and influence. Failure to obtain legal redress frequently led indigenous persons to attempt to regain land through invasions of private property, which led the authorities to retaliate forcefully. There was no available information about any de facto regime actions to address indigenous community land concerns.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no discriminatory laws based on sexual orientation, but in practice social discrimination against persons from sexual minority communities was widespread. Many NGOs indicated that hate crimes increased, particularly during political campaign season. Representatives of NGOs focusing on sexual diversity rights asserted that throughout the year security forces killed and abused their members. In cases where lesbian, gay, bisexual, and transgender (LGBT) persons were found dead, the prosecutor often encountered serious difficulties because the victims had either concealed their identity or sexual orientation, or were hiding from their families.

Criminal investigations did not recognize a “transgender” category. Sexual minority rights groups asserted that throughout the year security forces, government agencies, and private employers engaged in antigay discriminatory hiring practices. These groups also reported that intimidation, fear of reprisal, and police corruption made LGBT victims reluctant to file charges or proceed with prosecutions. In May Human Rights Watch released a report documenting targeted violence against transgender persons in the country. The report called for the repeal of statutory language on guarding against public scandal, which the police allegedly used to justify detaining transgender persons.

On January 12 and May 17, hundreds of LGBT protesters marched against hate crimes in Tegucigalpa calling for the government to investigate the reported killings of 28 persons from the sexual minority community since 2008. While police did not impede the demonstrations, authorities did not provide protection for the marchers. The organizers of the January and May events did not seek advance permission for these marches as required under the law.

There were multiple killings or attacks on persons presumably because of their sexual orientation. The LGBT rights organization Red Lesbica Cattrachas reported that between July and December, unknown actors killed 19 members of the LGBT community and that a number of gay persons fled the country out of fear of social and security-force persecution. One human rights group estimated that it registered approximately one case per month of pistol whipping and other police abuses against LGBT persons. The NGO Lesbian-Gay Rainbow Association of Comayagua operated a medical and psychiatric services clinic that treated between seven and 10 hate crime victims per month.

On January 9, unknown assailants shot and killed Cynthia Nicole, a transgender sex worker and well-known LGBT rights activist. In December 2008 armed men had physically assaulted Cynthia Nicole. At year’s end there was no information available regarding any investigation of these incidents.

On March 3, unknown assailants reportedly beat to death 18-year-old Delmer Joel Martínez, allegedly because they thought he was gay, and dragged his body to a field near the Tegucigalpa suburb of Nueva Suyapa. There was no information available about any investigation in the case.

Following the June coup, human rights organizations reported at least two cases in which police made death threats against LGBT persons for their involvement in anticoup protests saying, “We should kill all homosexuals.” On July 3, the IACHR requested that the de facto regime provide protective measures for four LGBT activists. In response to the commission’s request, the de facto regime published a newspaper advertisement in La Tribuna listing the names of all persons awarded protective measures from June 28 onwards and asked the named persons either to present themselves to the Supreme Court or call a government-listed telephone number. Human rights defenders reported that none of the persons listed in the advertisement replied to the government request and asserted that the advertisement was a form of intimidation against the named persons.

On June 29, unknown actors fatally shot in the head transvestite sex worker Vicky Hernandez Castillo (Jhonny Emilson Hernandez) in San Pedro Sula. Human rights defenders alleged that security forces were responsible for the killing because Hernandez Castillo was believed to have been killed while working during curfew hours on the night of June 28.

On September 20, unknown perpetrators fatally shot Salome (Jorge Samuel Caravante) and Zaira (Carlos Ricardo), two transvestite sex workers in Choloma, Cortes Department. At year's end there was no information regarding any investigation of these killings.

On December 4, unknown persons reportedly kidnapped and physically assaulted LGBT activist Walter Trochez but later released him. Trochez told human rights organizations that during his December 4 detention, the kidnappers questioned him about his involvement in the anticoup movement. On December 13, unknown assailants fatally shot and killed Trochez in Tegucigalpa. At year's end the Office of the Special Prosecutor for Human Rights was conducting an investigation.

At year's end there was no information available regarding a response by the Committee on Human Rights to a 2008 complaint filed by LGBT rights advocates about reports that authorities denied transgender persons national identity cards because the applicants were wearing cosmetics and feminine accessories.

At year's end Nelson Daniel Gaytan had been charged with unlawful detention and was awaiting trial for the 2007 police beating and detention of LGBT activist Donny Reyes. Police reportedly detained Reyes in a cell with 57 gang members who raped and beat him.

*Other Societal Violence or Discrimination.*—There was no reported widespread societal violence or discrimination against persons based on their HIV/AIDS status. However, the NGO Center for the Investigation and Protection of Human Rights reported that authorities refused to perform an autopsy on the body of transgender sex worker Vicky Hernandez Castillo because they believed she had been HIV positive.

Job-related age discrimination remained a serious problem.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers to form and join unions of their choice, but in practice workers exercised this right with difficulty. The law permits unions to operate without government interference. However, the law prohibits members of the armed forces and the police force from forming labor unions and also prohibits public service employees from presenting union organizing petitions or participating in collective bargaining. There were an estimated 519 unions representing approximately 8 percent of the work force, excluding the agriculture sector. As of July approximately 13 percent of the 133,000 apparel assembly workforce was unionized.

The law prohibits coexistence of more than two trade unions at a single enterprise, requires 30 or more workers to constitute a trade union, prohibits foreign nationals from holding union offices, and requires that union officials be employed in the economic activity of the business the union represents.

Union leaders were occasionally subjected to violence and threats. On April 1, authorities in San Pedro Sula arrested Sergio Misael Murillo Jimenez and charged him with the April 2008 murder of labor leader Altagracia Fuentes; her companion, labor leader Yolanda Sanchez; and their driver, Juan Bautista Aceituno. On April 11, authorities in La Lima, Cortes Department, found the body of Jose Omar Funez Cruz, a known gang member and a suspect in the killing of Fuentes. On May 4, police arrested Alexander Armando Reyes Ferrera and Elmer Alberto Orellana Dubon and charged them with the murder of Fuentes, Sanchez, and Aceituno. Authorities also arrested and charged police officer Marvin Mauricio Aguilar with misappropriation of public goods after he failed to turn in 58,500 lempiras (approximately \$3,080) and \$1,000 in U.S. currency found in Fuentes' automobile.

Throughout the year unknown actors made death threats by phone against labor activist Evangelina Argueta, who was involved in a textile industry collective bargaining agreement. By year's end authorities had not complied with the IACHR's August 7 request for protective measures for Argueta.

The law provides for the right to strike, and workers exercised this right in practice. The law prohibits strikes in a wide range of economic activities deemed essential services and any others that in the government's opinion affect individual rights to security, health, education, economic, or social life. The International Labor Organization (ILO) criticized the law's denial of the right to strike to workers in the petroleum sector and to government workers other than employees of state-owned enterprises.

In February Human Rights Ombudsman Ramon Custodio called strikes by teachers illegal, based on his assertion that such strikes interfered with “the right of children to have an education.”

Although civil servants occasionally engaged in illegal work stoppages without experiencing reprisals, the Ministry of Labor (MOL) has the power to declare the protest illegal and dismiss the protesting workers. The legal restrictions on strikes include a prohibition on labor federations and confederations from calling strikes and a requirement that a two-thirds majority of the votes of the total membership of the trade union call a strike.

Following the June coup, teachers took part in anticoup protests for several months. Between July and August, the Public Ministry reportedly received 27 complaints from parents about teacher absenteeism in public schools. On August 28, the press reported that the de facto regime education minister and finance minister stated that teachers engaging in political protests instead of reporting to work would not receive salaries.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and to bargain collectively, but the government did not protect this right in practice. Although the law requires that an employer begin collective bargaining once workers establish a union, employers often refused with impunity to engage in bargaining.

Although the law prohibits employer retribution for engaging in trade union activity, it was a common practice with employers threatening to close unionized companies and harassing or dismissing workers seeking to unionize. Some foreign companies closed operations when notified that workers sought union representation.

The MOL can reach administrative decisions and fine companies for unfair dismissal, but only a court can order reinstatement of workers. Employers often failed to comply with court orders requiring them to reinstate workers fired for engaging in union activity; failure to reinstate workers was a serious problem.

Although the law prohibits blacklisting, there was credible evidence that apparel assembly factory employers blacklisted with impunity employees seeking to form unions. There were reports of apparel assembly workers allegedly fired for union activity who were hired for one or two weeks and then dismissed with no explanation. Apparel assembly company employees reported seeing computer records that included previous union membership in personnel records. Some employers informed previously unionized workers that they were unemployable because of their previous union activity.

The government did not allocate adequate resources to the MOL for labor inspectors to perform their duties. The country’s labor inspectorate offices did not have financial resources to cover travel for inspections and requested that the government provide transport facilities and other necessities to enable inspectors to carry out their duties.

On November 14, Russell Athletic negotiated a settlement with worker representatives of the Jerzees de Honduras (JDH) factory in relation to the January closure of the JDH factory and unlawful dismissal of approximately 1,800 workers. The closure occurred after workers obtained legal registration for their union and had begun salary negotiations. The settlement included establishing a unionized factory, offering employment to former JDH employees, and joint union-company training.

There were no new developments regarding a Public Ministry investigation or the whereabouts of union leader Lorna Jackson, who remained in hiding at the end of 2008 after receiving death threats in relation to the August 2008 dismissal of 1,800 workers at Alcoa factories in El Progreso and Choloma.

Strikes are permitted in the 102 registered export processing zones (EPZs) and 19 industrial parks operating as EPZs. However, the law requires that strikes cannot impede the operations of other factories in the industrial parks. An additional 26 companies that provided services for industrial parks had their own free zones, outside the industrial parks. In the absence of unions and collective bargaining, several companies in the EPZs instituted solidarity associations that, to some extent, functioned as company unions for the purposes of setting wages and negotiating working conditions. Other EPZ companies used the minimum wage to set starting salaries and adjusted wage scales by negotiating with common groups of plant workers and other employees based on seniority, skills, categories of work, and other criteria.

*c. Prohibition of Forced or Compulsory Labor.*—The law generally prohibits forced or compulsory labor. However, there were reports of trafficking in children for commercial sexual exploitation and of child prostitution.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law regulates child labor and provides that minors between the ages of 14 to 18 cannot work

unless authorities determine that the work is indispensable for the family's income and will not conflict with schooling. The constitution and the law establish the maximum work hours for children under age 18 as six hours daily and 30 hours weekly. Parents or a legal guardian can request special permission from the MOL to allow children between the ages of 14 and 15 to work, so long as the ministry performs a home study to ensure that the child demonstrates economic necessity to work, and that the child will not work outside of the country or in hazardous conditions, including offshore fishing.

The law prohibits night work and overtime for minors under age 16 and requires that employers in areas with more than 20 school-age children working at their business facility provide a location for a school. The law provides for between three and five years in prison for persons violating child labor laws. In practice the vast majority of children worked without ministry permits.

Child labor was a problem. A May household survey found that approximately 170,000 children between the ages of five and 14 were child laborers, mostly in rural areas. Children often worked harvesting melons, coffee, and sugarcane or rummaging at garbage dumps; working in the forestry, hunting, and fishing sectors; and working as deckhands and divers in the lobster industry. Children worked as domestic servants, peddled goods such as fruit, begged, washed cars, hauled loads, and were employed in limestone and lime production. Most child labor occurred in rural areas. Worst forms of child labor included lobster fishing and the harvesting of coffee and sugar cane. Children worked out of economic necessity alongside other family members. In its 2009 report, the ILO Committee of Experts noted the high number of children, particularly girls, engaged in domestic work, as well as child victims of commercial sexual exploitation. Media outlets reported that street children had been found working as drug mules in Tegucigalpa and other cities in the country.

The government did not devote adequate resources or inspectors to follow up, prevent, or monitor compliance with labor laws. The MOL, the government agency responsible for enforcing child labor laws, did not effectively enforce child labor laws outside the apparel assembly sector, and there were frequent violations of the child labor laws. There was no known change to the practice of appointing child-labor inspectors only to offices in Tegucigalpa and San Pedro Sula, which reportedly limited their ability to investigate allegations of child labor.

The government conducted social and educational programs to reach at-risk children, including a school grant program to provide money for school supplies for very poor families and an alternative schooling program using radio and long-distance learning for children in distant rural areas with few schools. On May 25, the government launched Challenge 100, a joint public-private venture involving NGOs, the Honduran Maquiladora Association, and the Chamber of Commerce of Cortes. The venture targeted former gang members and assisted them in locating new jobs.

The government of President Zelaya conducted a National Plan of Action for the Eradication of Child Labor and a National Plan of Action to Eradicate Commercial Sexual Exploitation of Children. These programs reportedly continued under the de facto regime. The plans coordinated government agency actions to promote inter-institutional cooperation and assistance to victims of child labor. Government measures had minimal impact on diminishing child labor in light of extreme poverty, famine conditions in rural areas, and a lack of jobs for school graduates.

*e. Acceptable Conditions of Work.*—In December 2008 the government announced a 60 percent general increase in the minimum wage to 5,500 lempiras (approximately \$290) per month for city workers and 4,055 lempiras (\$213) for rural workers. However, the textile industry and free trade zones were left out of the increases. The increase put the private sector minimum wage (not including agriculture) on par with the public sector minimum wage. In the agricultural sector, employers often did not pay the minimum wage. The national minimum wage did not provide a decent standard of living for a worker and family.

The daily minimum wage scale is divided into 10 sectors based on the size of the worker's place of employment. The scale ranged between 55 lempiras (\$2.90) for unskilled labor and 135 lempiras (\$7.10) for workers in financial and insurance companies. The minimum wage is established through a commission composed of representatives from the government, business sector, and labor unions. The commission negotiates a new minimum salary, and if it fails to reach an agreement, the matter goes to the president for decision.

The law prescribes a maximum 44-hour workweek and at least one 24-hour rest period for every six days of work. The law requires overtime payment for hours in excess of the standard, and there are prohibitions on excessive compulsory overtime. Employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the MOL.

There were credible allegations of compulsory overtime at apparel assembly factories (particularly for women, who comprised approximately 65 percent of that sector's workforce), in the private security sector, and among household workers. Human rights organizations frequently reported that in the private security and household sectors, workers were typically obliged to work more than 60 hours a week and earned only the legal limit of 44 hours. Foreign workers enjoyed equal protection under the law.

The MOL is responsible for enforcing national occupational health and safety laws but did not do so consistently or effectively. Worker safety standards were enforced poorly, particularly in the construction industry, in garment assembly sector, and in agriculture production activities. There were complaints that foreign factory managers in EPZs and other private industrial facilities failed to comply with occupational health and safety regulations. Workers in pineapple production and other commercial agriculture enterprises alleged blacklisting by employers if they complained to the authorities about working conditions.

The NGO Honduran Women's Collective reported that large numbers of apparel assembly workers had back, neck, and carpal tunnel syndrome as well as respiratory (including tuberculosis), digestive, and skin diseases. These health problems were attributed to air contaminated by fine dust and fabric fuzz, noise, lack of ventilation, lack of protective equipment, and extreme temperatures.

The law does not provide workers with the right to leave a dangerous work situation without jeopardy to continued employment.

The MOL did not investigate alleged violations of occupational health and safety laws and other labor rights problems relating to the approximately 3,000 lobster divers, many from indigenous and other ethnic minority groups, in La Moskitia, Gracias a Dios Department. Since 2003 approximately 365 lobster divers died, and at least 2,000 became disabled due to the dangerous nature of their work.

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## JAMAICA

Jamaica is a constitutional parliamentary democracy with a population of approximately 2.8 million. In generally free and fair elections in September 2007, the Jamaica Labour Party (JLP) won 32 of the 60 seats in the House of Representatives, and JLP leader Bruce Golding was sworn in as prime minister. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were serious problems in some areas, including unlawful killings committed by members of the security forces, abuse of detainees and prisoners by police and prison guards, poor prison and jail conditions, impunity for police who committed crimes, an overburdened judicial system and frequent lengthy delays in trials, violence and discrimination against women, trafficking in persons, and violence against person based on their suspected or known sexual orientation.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—While the government or its agents did not commit any politically motivated killings, there were reliable accounts that security forces committed unlawful or unwarranted killings during the year.

According to official statistics, there were more than 200 shooting cases involving the police as of October 31, resulting in 241 fatalities for the entire year. Sources indicated that many police killings were unreported, with police meting out the justice they see as unavailable through the judicial system.

In most shooting incidents, police alleged that the victims were carrying firearms and opened fire on them. In many cases, however, eyewitness testimony contradicted the police accounts. In other cases, allegations of "police murder" were suspect, because well-armed gangs trafficking in weapons and narcotics and running lottery scams controlled many inner-city communities and were often better equipped than the police force.

The Jamaica Constabulary Force (JCF) employed lethal force in apprehending criminal suspects on many occasions. Violent crime was rampant, and there were a record 1,680 murders reported through December. The minister of national security referred to citizens killed by police as "collateral damage" and vowed to "use every effort" to defend police officers who were "hauled before the court like common criminals." However, it can take many years to bring police officers to trial for unlawful killings. Although there was progress during the year in bringing some cases

to trial, there were no convictions, and no police officer accused of human rights violations has been convicted since 2006. As of May 15, 1,040 investigations into complaints against police officers for a variety of crimes remained incomplete.

The JCF's Bureau of Special Investigations (BSI) investigated all police killings and when appropriate forwarded some to the Director of Public Prosecutions (DPP) for prosecution. For example:

On January 5, Paul Brown was driving a bus and allegedly hit a policeman's personal motor car. The policeman stopped him, an argument ensued, and Brown was shot in the face. The policeman was charged with murder, and his case remains before the court.

The BSI was investigating: the January 7 police killing of Anthony Nelson, a security guard, at Nelson's workplace; the April 5 killing of 16-year-old Hussein McCormack, found in a locked department store; the May 3 killing of Ramon Hopkins, whom eyewitnesses described as ordered off a motorcycle and then executed in a kneeling position with his hands behind his head; and the May 16 killing of Dane Daley, shot and killed by armed men in denim suits who were police officers.

On December 9, police shot and killed entertainer Robert Hill at his Kingston home in what police accounts called a "shootout." Prior to his death, Hill had reportedly told the Sunday Herald and other journalists that he feared for his life, and that police had been stalking and intimidating him after a crash with a police car in July. After the crash, he said police threatened him and beat him at Half Way Tree Police Station and at his home. The human rights group Jamaicans for Justice said "the young man did everything that a citizen could possibly do to highlight his case." At year's end the BSI was investigating the incident.

In February the DPP brought murder charges against Christopher Thompson, the police officer accused of murdering Randeem Hall in 2008. A December court date was changed to January 18, 2010, to allow time to locate witnesses. Authorities set a trial date of December 14 for the police officers charged in the 2008 murder of Carlton Grant, the 17-year-old son of dancehall artist Spragga Benz. The BSI completed the investigation into the killing of Jehvanie Robinson in 2008 and sent the case to the DPP, and the BSI was still investigating the 2008 deaths of Fabian Wray and Randall Richards.

The BSI completed its investigation into the 2007 police shooting deaths of Dexter Hyatt and Tian Wolfe and submitted the case to the DPP for a decision whether to bring charges.

In December 2007 the DPP charged four policemen, Noel Bryan, Phillip Dunstan, Omar Miller and Clayton Fearon, with murder in the 2007 death of Andre Thomas. Their trial was set to begin on April 26, 2010.

An inquest into the 2005 shooting death of Jeff Smellie started in November 2007 and was set to continue on January 11, 2010. Authorities had not yet brought to trial the police officers involved in the 2005 killings of Nicholas Weir and Donald Allen.

On June 3, authorities arrested Loui Lynch, Paul Edwards, and Victor Barrett, policemen involved in the 2004 abduction and killing of Kemar Walters and Oliver Duncan, and charged them with murder. Their trial began on December 11.

While it can take years for police officers charged with killings to reach trial, appeals can also take years to process, as exemplified by the Janice Allen case. In 2000 a group of policemen allegedly shot and killed 12-year-old Janice Allen on a Kingston street. Authorities eventually charged one police officer, Rohan Allen, with her murder, but a court later acquitted the defendant, and the DPP chose not to prosecute him again. Janice's mother pursued a series of appeals, including an application for judicial review by the Privy Council of the DPP's decision. The Privy Council ruled in her favor and ordered the DPP to reconsider its decision not to prosecute Rohan Allen again. The hearing at which the DPP will consider prosecuting Rohan Allen a second time is scheduled to take place in February 2010.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, reports of physical abuse of prisoners by guards continued, despite efforts by the government to remove abusive guards and improve procedures.

When prisoners raised allegations of abuse by correctional officers, the charges were first reviewed by corrections officials, then by an inspector from the Ministry of National Security, and finally by the police. Authorities file charges against correctional officers for abuse if evidence is found to support the allegations. However, official complaints and investigations were infrequent.

*Prison and Detention Center Conditions.*—Prison conditions remained poor, primarily due to overcrowding and poor sanitary conditions. Men and women were in-



carcerated in separate facilities under similar conditions. Cells in some facilities had little natural light and inadequate artificial light. Hunt's Bay Lockup held prisoners in a cage-like structure open to the rain and sun and the curious gazes of passers-by. The women's prison, Fort Augusta with about 200 inmates, had no indoor water supply. Inmates had to fetch water in containers they provided themselves from a central spigot or well. Inmates who did not own a container could not bathe.

Prison food was poor, and wardens were observed serving themselves generously with whatever meat was available, leaving only leftover gravy for the inmates. Mattresses were not provided; inmates slept on the concrete floors. Those with access to funds and outside contacts were permitted to purchase thin foam mattresses that often became infested with bedbugs. Ringworm was a common malady.

At the Armadale Juvenile Correctional Center where 50 girls, ages 13 to 16, were held in severely overcrowded conditions, lockdown was a common punishment for unruly behavior and other infractions. Although the use of lockdown was supposed to be limited to 24 hours, inmates reported lockdowns that lasted more than a month. During lockdown the girls were not permitted to use the bathrooms; instead, buckets or newspapers were used and removed each morning.

On May 22, fire broke out in the Armadale facility when police threw a tear gas canister into the locked dormitory. It ignited a foam mattress, and five girls died in the flames. Many more were injured, and two more girls died in the hospital from their injuries. The lack of sufficient or operable fire extinguishers led directly to the deaths of the inmates. Reports concluded that supervision and staffing was grossly inadequate, with staff often working double shifts. Inmates reported that they were forced to eat their meals with their hands as no eating utensils were provided. The facility was closed immediately after the fire.

Prison medical care was also poor, primarily a result of having only three full-time doctors, one full-time nurse, and one psychiatrist to cover 12 facilities (eight adult, four juvenile) with almost 5,000 inmates across the island. One prisoner died after breaking a leg; prison staff claimed there was no vehicle available to transport him to the hospital, and by the time he was brought in, complications from diabetes had caused infection and the prisoner died. Other prisoners in need of dentures and unable to eat the prison food encountered difficulties in gaining access to a dentist. A doctor who treated the girls at Armadale made repeated requests to have two sexually active, HIV-infected inmates removed, to no avail. She also reported that many inmates at Armadale were suicidal, homicidal, or suffered from psychosis and received no treatment.

Although the law prohibits the incarceration of children in adult prisons in most cases, some juveniles as young as 13 years old were held in adult jails because there were no juvenile facilities with adequate security. Authorities jailed juveniles convicted of murder in an adult facility, but police were prohibited from holding children under 14 in adult police detention. Nonviolent youth offenders were under the jurisdiction of the social services agency and were generally sent to unsecured halfway houses (called "places of safety" or "juvenile remand centers") if they were removed from their homes.

Authorities moved girls to the women's prison from other facilities due to incorrigibly violent behavior. After the closure of Armadale, nine of those girls were moved to the notorious Horizon maximum-security remand center where the island's most violent male offenders are held. In October the Office of the Children's Advocate announced that it would investigate reports of children being held in police lock-ups.

Most pretrial detainees were held in police custody either in police stations or in remand centers, generally separate from convicted prisoners. Convicted prisoners were held in police custody only if they were in the process of being moved to a prison facility.

In general the government allowed private groups, voluntary and religious organizations, local and international human rights organizations, and the media to visit prisons and monitor prison conditions, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—The law permits the arrest of persons "reasonably suspected" of having committed a crime. While the law prohibits arbitrary arrest, security forces performed "cordon and search" operations, during which they detained persons and took them into custody. Although police can legally hold a person for 24 to 48 hours before charging or releasing them, the police reportedly held individuals until they determined whether they could charge them with anything, sometimes for as long as five weeks.

*Role of the Police and Security Apparatus.*—The JCF has primary responsibility for internal security and is assisted by the Island Special Constabulary Force. The Jamaica Defence Force (JDF) is charged with national defense, maritime narcotics interdiction, and JCF support. The JDF has no mandate to maintain law and order

and no powers of arrest (with the exception of the JDF coast guard in the maritime domain) unless so ordered by the prime minister. The Jamaica Regiment (JDF infantry forces) was detached as part of a joint internal security operation to assist the JCF in patrolling certain communities. The prime minister occasionally authorized the JDF to cordon and search with the JCF. The Ministry of National Security oversees the JCF and the JDF.

The JCF is headed by a commissioner who delegates authority through the ranks to its constables. The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs. The Anti-Corruption Branch, headed by a British police officer hired as assistant commissioner of police, has responsibility for addressing corruption in the force, and some recent improvements have been noted. However, the corruption and impunity within the force remained despite a notable increase in the number of arrests of officers for corruption.

In January the JCF launched a toll-free hotline through which the public could anonymously report corrupt activities of both police and customs officials. In March the police commissioner uncovered a major corruption scheme involving officers at the Mount Salem Police Station. Beginning in October 2008, officers recruited a civilian to pose as a member of the force and participate in a lottery scam to defraud unsuspecting citizens. Undetected for six months, the fake officer bore firearms and participated in regular police activities.

As of December, authorities had arrested 60 JCF officers on corruption charges. Of the 56 police officers arrested in 2008 on corruption-related charges, the courts convicted three persons, dismissed 15 cases, and had 38 trials pending. Human rights groups identified systematically poor investigative procedures and weak oversight mechanisms as factors contributing to corruption. Another major factor in police corruption was the very low salaries paid to JCF members, in contrast to JDF soldiers, who have the reputation of being incorruptible and earn substantially higher salaries plus room and board for themselves and their families.

In December a court found former police superintendent Harry Daley guilty of corruption, and a judge sentenced him to 18 months of hard labor. The charges against Daley stemmed from allegations that he had collected protection money since 2007 from a businessman in St. Catherine's. He was to face trial on five other counts of corruption in January 2010.

The JCF conducted administrative and criminal investigations into all incidents involving fatal shootings by police. The JCF's BSI addressed police shootings, but no officer was found criminally liable during the year. The BSI, unable to keep up with its caseload, had a backlog of approximately 960 cases with only 21 investigating officers to cover more than 30 allegations of excessive force per month. BSI supplements the civilian Police Public Complaints Authority, which oversees investigations by the other two bodies and also initiates its own investigations.

The JCF continued a community policing initiative to address the long-standing antipathy between the security forces and many poor inner-city neighborhoods. Through a recently established Community Safety and Security Branch, the JCF conducted targeted training of 200 officers in 38 communities, trained community safety officers, and assigned JCF officers to targeted schools as resource officers to stem school violence. These officers also served as liaisons between the students, faculty, parents, and police. The government bolstered these efforts through public education and by nominating deputy divisional commanders with responsibility to introduce community policing to all the communities within their division.

Three civil society organizations—Jamaicans for Justice, the Independent Jamaica Council for Human Rights (IJCHR), and the local Amnesty International group—designed law enforcement and human rights training for JCF police cadets. The training sessions, approved by the police commissioner and the police academy commissioner, began in 2008 and continued during the year. Instructors from both within and outside the country conducted two 33-hour courses on the use of force, arrest and detention, and other best practices.

*Arrest Procedures and Treatment While in Detention.*—Arrests normally require warrants signed by a police officer of the rank of station sergeant or higher; however, arrests may be made without warrants. Police often used the warrant as the first step in an investigation, in order to search for evidence. The law requires detained suspects to be charged or released within 24 to 48 hours of arrest, unless a justice of the peace or a resident magistrate grants a special waiver.

The law also requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial) under the legal aid program, if requested by the detainee; however, authorities continued to wait until after detainees had been recognized in an identification lineup before contacting duty counsel for them. There was a functioning bail system, and detainees were provided with prompt access to family members.

Although the law requires police to present a detainee in court within a reasonable time period, in practice suspects were sometimes remanded for psychiatric evaluation, some for as long as three years when their cases were "lost in the system." Magistrates were required to inquire at least once a week into the welfare of each person listed by the JCF as detained, but few did so in practice, especially in the busy Kingston/St. Andrew corporate area.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, the judicial system relied entirely on the Ministry of Justice for all resources.

Trials in many cases were delayed for years, and other cases were dismissed because files could not be located or had been destroyed. Some trials suffered as a result of antiquated rules of evidence as well as lack of equipment for collecting and storing evidence. For example, drug evidence collected in an arrest had to be stored in its entirety; samples or photographs were not acceptable. Storage facilities were inadequate and understaffed, so evidence went missing, rotted in the warehouse, or could not be located when needed.

The resident magistrate's courts, which handled more than 90 percent of the cases in the court system, continued operation of a night court in an effort to reduce the backlog of cases. The Supreme Court used mediation through the Dispute Resolution Foundation as an alternative to traditional trials, which alleviated some of the civil case backlog in that court. The resident magistrate's courts also used alternative dispute resolution in limited cases.

Some criminal trials were dismissed because witnesses failed to come forward as a result of threats, intimidation, or murder. Some of those who came forward qualified for the witness protection program, but many either refused protection or violated the conditions of the program. According to the JCF, no participant in the witness protection program who abided by the rules of the program was ever killed.

The court system includes justices of the peace, the resident magistrate's courts, the Supreme Court, which has unlimited jurisdiction in civil and criminal matters, and the Court of Appeal. Defendants have the right to appeal a conviction in any of the two trial courts (resident magistrate's courts and the Supreme Court) to the Court of Appeal, the highest court in the country, and ultimately to the Judicial Committee of the Privy Council in London, the final court of appeal.

*Trial Procedures.*—Most trials are public and adjudicated by a judge alone. More serious criminal offenses are tried with juries in circuit court at the Supreme Court level. There was a persistent problem seating enough jurors for cases, which contributed to the extensive judicial backlog. Citizens were reluctant to serve as jurors for fear of retribution.

The constitution provides that defendants are presumed innocent and have the right to counsel and to confront witnesses against them. Legal Aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act and in the case of offenses in which the defendant is not liable to incarceration. The Office of the Public Defender (OPD) may bring cases for persons who have had their constitutional rights violated but cannot prosecute or otherwise appear in court. Although the OPD contracted with private attorneys to represent indigent clients, funds were insufficient to meet the demand, and such attorneys sometimes requested payment from clients.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial civil judiciary process. Complainants may bring human rights abuse cases for civil remediation to the courts, but awards can be difficult to collect. The government is required to undertake pretrial negotiations or mediation in an attempt to settle out of court, but the government often did not do so. When there were settlements, whether in or out of court, the government often lacked the funds to pay, resulting in a backlog of awards.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the constitution prohibits such actions, the Constabulary Force Act gives security personnel broad powers of search and seizure. This act allows search without a warrant of a person on board or disembarking from a vehicle, ship, or boat if a police officer has good reason to be suspicious. In practice the police conducted searches without warrants.

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

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

The independent media were active and expressed a wide variety of views without restriction. However, some local media professionals expressed concern that the country's libel laws limited their freedom of expression. Specifically, news outlets reported the need to self-censor investigative reports because of the potential for courts to award high damages in cases of defamation. Some journalists also stated that they censored their political coverage based on fear of violent reprisals. The Press Association of Jamaica (PAJ) and the Media Association of Jamaica (MAJ) continued to advocate changes in the libel laws, which the PAJ president described as "oppressive."

Prime Minister Golding, when he was opposition leader, called for a review of the country's old libel and defamation laws to allow the media more freedom to report on public officials. Golding argued that since such public officials are to be held to a higher standard than the average citizen, they should therefore not be subject to the same protection under the law.

The June parliamentary session considered several issues related to the libel and defamation laws, but did not complete its review. The MAJ and the PAJ were expected to reconvene with the Joint Selection Committee of Parliament to come to a compromise.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the International Telecommunication Union, there were 57 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom. With respect to cultural events, the Jamaica Broadcasting Commission (JBC) sought to regulate and limit the dissemination of certain popular music deemed inconsistent with public morality. Despite public protest early in the year, the commission banned certain lyrics deemed inappropriate for broadcast, including dancehall songs referring to the simulation of aggressive or violent sex. The commission also banned editing methods used to expunge lyrics thought unfit for broadcast, which protesters interpreted as an outright attack on dancehall music. The commission stated that its directive was aimed at "all types of musical broadcast output, including soca music and carnival music."

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief or were due to the group's illegal use of marijuana as part of Rastafarian religious practice.

There was a small practicing Jewish congregation in the country. There were no reports of societal abuses or discrimination, including anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits forced exile, and there were no reports that it occurred.

*Protection of Refugees.*—Although the country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, its laws do not provide for the granting of asylum or refugee status. However, the government has established a system for processing and providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened, and it handled refugee or asylum cases administratively.

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

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

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

*Elections and Political Participation.*—All citizens age 18 and over have the right to vote by secret ballot. However, in recent elections voters living in “garrison communities,” inner-city areas dominated by one of the two major political parties, often faced substantial influence and pressure from politically connected gangs and young men hired by political parties to intimidate supporters of the opposing political party. These factors impeded the free exercise of their right to vote. According to Amnesty International, at least nine persons died as a result of election-related violence in the 2007 campaign period.

In the 2007 elections, after a legal challenge in one district, authorities determined that the JLP won 32 out of 60 seats in the House of Representatives. People’s National Party (PNP) challengers filed four cases against elected parliamentarians who held dual nationalities, citing a constitutional provision that bars from office those who have “sworn allegiance to a foreign power.” Although three winning candidates subsequently renounced their foreign citizenship, the Supreme Court ruled that if the candidate had held dual citizenship at the time of nomination for office, he or she was ineligible to hold a seat in Parliament. In three of the four cases heard thus far, the Supreme Court ordered by-elections, each of which was won by the incumbent JLP parliamentarian after renouncing dual nationality. In response to the PNP challenges, the JLP threatened to reciprocate against PNP parliamentarians holding dual citizenship, with one such challenge filed in October. At year’s end the case continued.

There were eight women elected to the 60-seat House of Representatives and three women appointed to the 21-seat Senate. Two of the 16 cabinet ministers were women.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, but the government did not implement the law effectively, and officials engaged in corrupt practices with impunity. The World Bank’s worldwide governance indicators reflected that government corruption was a serious problem. A 2007 media poll and a survey by the Caribbean Policy Research Institute found that the public believed more than half of the JCF was corrupt and considered corrupt nearly 50 percent of all government employees, particularly parish council members and customs officers.

In February 2008 authorities arrested Kern Spencer, the former junior minister of energy, mining, and telecommunications, on charges of fraud, corruption, and money laundering in connection with a scandal involving payment of more than J\$114 million (\$1.7 million) to distribute and install light bulbs donated by Cuba. At year’s end Spencer’s trial continued and was set to resume in January 2010.

Another major scandal led to the resignation in July of Joseph Hibbert, a JLP Member of Parliament and the junior minister in the Ministry of Transport and Works, following allegations of bribery. The former official was one of a dozen politicians who allegedly accepted bribes from the British bridge-building firm Mabey and Johnson. In September the firm pled guilty to foreign bribery charges following an investigation by the United Kingdom’s Serious Fraud Office, alleging that it had paid Hibbert more than \$160,000 since 1999. Hibbert denied the charges and, despite a recommendation from the contractor general for charges of corruption and perjury, the former junior minister continued to hold his seat in Parliament.

In the North-East St. Catherine parliamentary by-election in June, PNP allegations of corruption prompted an investigation by the Office of the Contractor General (OCG). The PNP charged that the JLP had awarded state contracts to gain political advantage prior to the by-election. The OCG report apparently found “irregularities” in the award of public works contracts in the period before the election, but procurement guidelines are so vague that it was not clear if any illegality was involved. By year’s end Parliament had not acted on the report.

Also in June authorities arrested two longtime Supreme Court clerks for breaching the Corruption Prevention Act. The employees, suspected of charging unsanctioned fees to expedite divorce petitions, awaited trial at year’s end. In October authorities arrested an employee of the Inland Revenue Department on several counts including fraud and falsifying documents. The employee was accused of stealing J\$21 million (\$237,000) from the Finance Ministry.

The Corruption Prevention Act requires many government officials to file financial declarations; however, reports indicated that more than 5,000 civil servants failed to file or filed late or incomplete financial declarations required under the act. The

DPP's office has the authority to identify noncompliant officials and send their cases to the magistrate's office, but the government did not levy any fines on officials during the year. The Ministry of Justice and the Attorney General's Office have overall responsibility to combat official corruption, but the various ministries are responsible for their own investigations.

The Access to Information Act was designed to "reinforce and give further effect to the fundamental democratic principles vital to governmental accountability, transparency and public participation in national decision making." According to media accounts, however, these standards were not routinely met. The MAJ asserted that one request by the Gleaner newspaper to the National Land Agency for documents pertaining to information on the value and total acreage of state land was ignored for six months. After the Gleaner made another request for the same information, an additional four months passed before access to the documents was finally granted.

Not only was access to information on occasion unreasonably delayed, it was sometimes categorically denied. In one example, the media asked the Office of Cabinet for access to documents outlining the number of meetings held by the new cabinet, as well as the number of members attending each one. This request was denied, and only after the minister of information intervened was access to the information granted. The act contains no sanctions or penalties to discourage the lack of response to applications.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

The IJCHR was the country's only formal organization concerned with all aspects of human rights. The NGO Jamaicans for Justice focused on the issues of police impunity, extrajudicial killings, and excessive use of force by the police. Many news editorials, as well as the minister for national security, criticized these groups, fuelling a public misperception that the organizations advocated only on behalf of accused criminals.

The Public Defender's Office provides services on behalf of those who charged that their constitutional rights were violated. The office contracted private attorneys to bring suits against the government on behalf of private citizens.

The government was generally supportive of international human rights concerns and humanitarian NGOs, although there was cause for concern during the year. In May Member of Parliament and Minister for National Security Dwight Nelson unleashed a firestorm of controversy when, speaking before the Jamaican Police Federation, he seemed to signal government tolerance of police misconduct in referring to police shootings as "collateral damage" and promised sympathy and legal assistance to police officers accused in such instances. Nelson soon apologized for his statements but returned to the headlines later in the year when he told a crime forum that "there are times when you have to restrict rights to bring back order and discipline" and criticized human rights groups "who make a lot of noise about civil liberties and human rights..."

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

The law prohibits discrimination based on race, gender, place of origin, political opinions, color, or creed. The government generally enforced these prohibitions in practice, although there continued to be widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, particularly in the garrison communities.

*Women.*—Rape is illegal and carries a maximum penalty of 25 years' imprisonment. The 2009 Sexual Offenses Act criminalizes spousal rape. During the year victims reported 671 rapes, a decrease of 21 percent from 2008. NGOs believed the actual numbers were much higher, but no detailed statistics were available. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes. Only partial information was available as to the number of prosecutions and convictions obtained. For the period January through July, there were 20 rape prosecutions and six convictions, not including figures from the circuit courts in the rural parishes.

Social and cultural norms perpetuated violence against women, including spousal abuse. Violence against women was widespread, but many women were reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. The law prohibits domestic violence and provides remedies including

restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to J\$10,000 (approximately \$114) and six months' imprisonment. Police were generally reluctant to become involved in domestic issues, which led to cases not being pursued vigorously when reported. The Bureau of Women's Affairs (BWA) operated crisis hotlines and managed a public education campaign to raise the profile of domestic violence, while the NGO Woman Inc. operated a shelter that received some government funds.

Although the law prohibits prostitution, it was widespread, particularly in tourist areas. Trafficking in women for prostitution and sex tourism continued to be a problem.

There is no legislation that addresses sexual harassment, and the BWA reported that it had become a "disturbing problem." There were anecdotal reports of sexual harassment of women by the police as well as in the workplace, but few statistics were available. The BWA and NGOs such as Woman Inc. and Women's Media Watch believed that women often did not report such incidents because there was no legal remedy.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery were widely available. However, essential obstetric and postpartum care was often lacking. Missionaries of the Poor, a Kingston-based NGO, provided counseling and medical services to expectant mothers. Women and men were given equal access to diagnostic services and treatment for sexually transmitted diseases, including HIV.

Although the law accords women full legal equality, including equal pay for equal work, in practice women suffered from discrimination in the workplace and often earned less than their male counterparts. The BWA, reporting to the minister of development, oversaw programs to protect the legal rights of women. These programs had limited effect but raised awareness of problems affecting women. Women sought jobs and served in almost every occupation in both the public and private sectors.

There was an active community of women's rights groups, including Women's Media Watch, the Women's Political Caucus, the St. Peter Claver Women's Housing Cooperative, the Women's Construction Collective, the Sistren Theatre Collective, Woman Inc., and the Centre for Gender and Development Studies at the University of the West Indies. Among the major concerns of these groups were the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women.

*Children.*—Every person born in the country after August 5, 1962, is entitled to citizenship. Persons born or adopted outside the country to one or more Jamaican parents can claim citizenship, and those married to Jamaican spouses may also claim citizenship. There is universal birth registration.

Actual school attendance rates hovered around 64 percent due to the expense of school uniforms, lunch, and books, coupled with lost wages for not working on family farms or selling items on the street. To address this, the Ministry of Social Security established a program to provide stipends to pay for educational expenses. However, students must maintain an 85 percent attendance rate to qualify, resulting in underutilization of the program.

Under the Child Care and Protection Act, the Child Development Authority (CDA) in the Ministry of Health is responsible for implementation of the government's programs to prevent child abuse. The Office of the Children's Advocate (OCA) has broad responsibilities for reviewing laws, policies, practices, and government services affecting children; providing legal services and investigating complaints against the government; and publishing reports and issuing best practice guidelines concerning the rights or best interests of children. The Ministry of Education, in collaboration with the police, the CDA, and the OCA, maintained a "safe school zone" program.

In October the OCA reported it had received 365 complaints during the year and conducted some preliminary investigations while referring other cases to appropriate government institutions. The OCA intervened to have students reinstated in schools, assigned lawyers to represent children in court cases, and successfully sought bail for minors accused of committing crimes. OCA officials met with the commissioner of corrections to discuss the treatment of children in penal institutions. As a result of the OCA's advocacy, the Department of Correctional Services provided psychological assessments, medical examinations, and individual and group counseling to minors.

There was no societal pattern of abuse of children; however, there were numerous reports of rape and incest, particularly in inner cities. The law prohibits statutory rape, defined as sexual relations with a person under 16 years old, the minimum age for consensual sex. Penalties for sexual relations by an adult with a child be-

tween the ages of 12 and 16 is a misdemeanor punishable by not more than seven years in prison; if the victim is under 12, it is a felony punishable by up to life imprisonment. In a 2008 Reproductive Health Survey, almost half of young women reported that they had been pressured or forced into sexual intercourse at the time of their first sexual experience. NGOs reported that inner-city gang leaders and sometimes even fathers initiated sex with young girls as a "right." There were 498 cases of carnal abuse reported to the JCF, a decrease of 18 percent over the same period from 2008.

The government expressed concern about child abuse and acknowledged that incidents were underreported. The Task Force on Child Abuse, established by the prime minister's office in October 2008, coordinated the "Ananda Alert" child protection system to search for missing children. The CDA held training sessions to familiarize police officers with the rights of children and to prepare them to enforce the Child Care and Protection Act. The OCA and the Family and Parenting Center conducted a child protection audit and training to prevent child abuse victims from being re-victimized and to facilitate court proceedings in victimization cases. The Child Abuse Registry recorded a significant increase in reported cases compared with 2008. The Child Care Protection Act places responsibility on all citizens to report suspected abuse, with a penalty of up to J\$500,000 (\$5,600) for failure to do so.

Child prostitution and trafficking for the purpose of sexual exploitation were problems, especially in tourist areas.

In July Parliament approved a child pornography bill, criminalizing commercial sexual exploitation of children. The law applies to the production, possession, importation, exportation, and distribution of child pornography and carries a maximum penalty of 20 years' imprisonment and a fine of J\$500,000 (\$5,600).

*Trafficking in Persons.*—The law prohibits all forms of trafficking; however, persons were trafficked to, from, through, and within the country.

Most trafficking victims were poor women and girls, but also increasingly boys, who were trafficked from rural to urban and tourist areas for commercial exploitation. Women were reportedly trafficked from Asia, the Dominican Republic, Russia, and Eastern Europe, while some women and girls were trafficked to Canada, the United Kingdom, the United States, the Bahamas, and other Caribbean destinations. Children trafficked within the country may also be subjected to domestic servitude and forced labor.

Victims were lured by the promise of jobs and education. Some victims were trafficked by family members, while others voluntarily answered employment advertisements without knowing what the job actually entailed. Girls recruited on the streets of Kingston and Montego Bay were also vulnerable to being trafficked into selling drugs or becoming drug couriers. In January, 10 Jamaicans, lured by the promise of work, traveled to Curacao but were locked up and forced into prostitution. Four victims escaped, but information was not available on the remaining six.

As a measure to limit trafficking for commercial exploitation, the Ministry of Labor significantly increased the work permit fees for foreign exotic dancers, resulting in a dramatic decrease in their presence on the island.

The Child Care and Protection Act specifically prohibits the sale or trafficking of minors and provides that violators receive the maximum penalty under the law. This law subjects convicted traffickers to a fine or imprisonment with hard labor for a term not exceeding 10 years, or both. The Trafficking in Persons Act provides penalties of up to 10 years' imprisonment for permitting or facilitating trafficking. It also allows for restitution to the victim. Three major crime hotlines were available to receive reports of trafficking 24 hours a day. In 2008 the DPP successfully prosecuted one case of trafficking in children before a court; authorities prosecuted a few such cases under other laws during the year.

The government's National Task Force against Trafficking in Persons, chaired by the Ministry of National Security, had the lead on all trafficking issues. A specialized police antitrafficking unit within the Organized Crime Division of the JCF compiled data on trafficking investigations and related legal proceedings. The task force was also involved in public education programs, maintained a hotline for trafficking victims, and worked with NGOs operating a shelter in Negril.

During the year the JCF conducted four raids and made two arrests on trafficking charges, although there were no convictions. In June authorities arrested Paul Lewis, a prominent preacher, in Westmoreland in June for having sex with a 15-year-old while a 14-year-old was present. His trial was scheduled to begin December 18.

Law enforcement training taught ways to identify trafficking victims and directed police not to charge the victims with crimes such as solicitation or pandering. The International Organization for Migration (IOM), in collaboration with the Ministry



of National Security, trained judicial authorities and attorneys in the DPP's office to adequately address such issues.

The CDA managed facilities for at-risk children, and the government provided funding to NGOs that worked to reintegrate child laborers who were victims of trafficking.

The BWA integrated trafficking topics into its public education program. The IOM worked closely with government officials in conducting training, using its manual on prevention and suppression of trafficking. In July the Ministry of National Security conducted training for resident magistrates, prosecutors, JCF antitrafficking units, Narcotics and Transnational Units, the Ministry of Foreign Affairs and Foreign Trade, and NGOs during a two-day conference. The ministry also provided specialized training for operators in the Victim's Support Unit and maintained a trafficking hotline.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—There are no laws prohibiting discrimination against persons with disabilities or mandating accessibility for persons with disabilities, and such persons encountered discrimination in employment and denial of access to schools. Health care and other state services were reported to be universally available. The Ministry of Labor has responsibility for the Jamaica Council for Persons with Disabilities, which had a budget of J\$47 million (\$500,000) in 2008-09. The ministry also has responsibility for the Early Stimulation Project, an education program for children with disabilities, as well as the Abilities Foundation, a vocational program for older persons with disabilities.

*National/Racial/Ethnic Minorities.*—Maroons, descendants of slaves who escaped to the mountainous interior in the 17th and 18th centuries, consider themselves a group apart and maintain some African traditions distinct from those of the larger society. They continue to defend their rights and legal status, which stem from peace treaties signed with the British in 1739-40. In Maroon communities such as Accompong and Nanny Town, voters elect a Colonel for a five-year term, who governs the community assisted by an appointed 32-member council. Maroons also vote in general elections, and their leaders work with Parliament to ensure that their communities' needs are considered when making important decisions. Maroons are exempt from national taxes and land is held in common; however, there are major infrastructural needs that the Maroons feel the central government neglects. Formal education is not available in Maroon communities beyond the junior high school level, and unemployment rates are high. Many young Maroons leave the region for employment elsewhere, and the communities' rich culture and heritage is threatened by this migration and by the influx of popular island-wide culture.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law prohibits "acts of gross indecency" (generally interpreted as any kind of physical intimacy) between men, in public or in private, which are punishable by 10 years in prison. In October Prime Minister Golding, who upon taking office announced that no gays or lesbians would be allowed to serve in his cabinet, called for a constitutional prohibition against same-sex marriage.

The Jamaica Forum for Lesbians, All Sexuals, and Gays (J-FLAG) continued to report human rights abuses, including arbitrary detention, mob attacks, stabbings, harassment of homosexual patients by hospital and prison staff, and targeted shootings of such persons. Police often did not investigate such incidents. J-FLAG reported 33 cases of serious injuries to gays and lesbians over an 18-month period. The violence led many such persons to emigrate.

J-FLAG members also suffered attacks on their property and home intrusions, as people demanded to know the number of persons and beds in a home. In one instance, a fire bombing at the home of two men left one of them with burns on more than 60 percent of his body. In addition such persons faced death and arson threats, with some of these directed at the J-FLAG offices. J-FLAG did not publicize its location due to such threats, and its officials reported feeling unsafe having meetings with clients at the organization's office.

On September 9, an honorary British consul in Montego Bay was strangled in bed, and a note left at the scene reportedly denounced the victim as gay. On October 12, a passerby accused a pedestrian on a Kingston sidewalk of being gay because he had been walking in an "effeminate manner." That person was subsequently attacked with a machete and four fingers were nearly severed.

The trial of six suspects arrested for the 2005 robbery and murder of prominent gay rights advocate Lenford "Steve" Harvey, initially begun and then postponed in 2007, was scheduled to recommence on January 25, 2010.

Male inmates deemed by prison wardens to be gay were held in a separate facility for their protection. The method used for determining their sexual orientation was subjective and not regulated by the prison system, although inmates were said to confirm their homosexuality for their own safety. There were numerous reports of violence against gay inmates, perpetrated by the wardens and by other inmates, but few inmates sought recourse through the prison system.

Gay men were hesitant to report incidents against them because of fear for their physical well-being. Lesbian women were subject to sexual assault as well as other physical attacks. Human rights NGOs and government entities agreed that brutality against such persons, primarily by private citizens, was widespread in the community.

*Other Societal Violence or Discrimination.*—No laws protect persons living with HIV/AIDS from discrimination. Human rights NGOs reported severe stigma and discrimination against this group. The International Labor Organization (ILO) worked with the Ministry of Labor on a program to reduce the stigma of HIV/AIDS in the workplace and to assist employers in designing policies for workers with HIV/AIDS. Health care facilities were prepared to handle patients with HIV/AIDS, but health care workers often neglected such patients. The Ministry of Labor, in conjunction with the ILO and the Ministry of Health, conducted workplace education programs for HIV/AIDS issues.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form or join a trade union, and unions functioned freely and independently of the government. Approximately 20 percent of the work force of 1.2 million was unionized. Some unions reported that it was not uncommon for private sector employers to lay off union workers and rehire them as contractors, a practice some unions did not oppose so long as labor and management agreed. In July the Appeals Court upheld a 2005 decision by the Industrial Disputes Tribunal to hold a representation rights poll for more than 300 hotel contract workers who had been unable to formalize union representation.

The law neither authorizes nor prohibits the right to strike, and strikes occurred. Striking workers could interrupt work without criminal liability but could not be assured of keeping their jobs, although there were no reports of any workers losing their jobs due to strike action during the year. Workers in 10 categories of “essential services” must first take disputes to the labor ministry before they can legally strike. The ILO has repeatedly criticized the government for broadly defining these 10 categories.

*b. The Right to Organize and Bargain Collectively.*—The law permits unions to conduct their activities without interference, and the government protected this right in practice. An estimated 20 to 25 percent of the work force was covered by a collective agreement. An independent Industrial Disputes Tribunal (IDT) hears cases when management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handled 35 to 40 cases each year. Most were decided within 90 days, but some took longer to resolve due to the complexity of the dispute or delays requested by the parties.

Collective bargaining is denied to a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated with the union). The ILO Committee of Experts asked the government to change this, but the government disagreed with the recommendation and expressed no intent to change the existing law.

The law allows for union activity and prohibits antiunion discrimination. The law prohibits firing an employee for union activity, and employers generally respected the law in practice. However, there were several cases of antiunion activities during the year, including an incident in which 18 former employees of Solo Jamaica Ltd. accused the company of union-busting and wrongful termination. According to the former employees, management attempted to bribe them in order to dissuade them from unionizing and forced them to sign temporary contracts. When the National Workers Union submitted a claim to represent the workers’ interests, management initially denied having received the claim and then laid off the workers. While union organizers and members are entitled to full legal protections that were effectively enforced, both management and workers were often unaware of their collective bargaining rights and obligations. In many cases, management easily intimidated and dissuaded less-educated workers from joining or organizing unions, and workers feared filing complaints with the Ministry of Labor.

Domestic labor laws applied equally to the “free zones” (export processing zones), but there were no unionized companies in any of the three publicly-owned zones. Organizers attributed this circumstance to resistance to organizing efforts by foreign owners in the zones and the belief that many free-zone employees were difficult to unionize since they feared losing their jobs. Employer-controlled “workers’ councils” handled grievance resolution in most of these companies but did not negotiate wages and conditions, which were set by management.

*c. Prohibition of Forced or Compulsory Labor.*—The country has ratified relevant ILO conventions, which carries a legal obligation to apply their provisions. Other than that, there are no specific laws prohibiting forced or compulsory labor, and there were reports of child prostitution and of girls in rural areas recruited for domestic labor and then forced into servitude.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace and stipulates that every citizen has a duty to report child abuse. The minimum age for employment is 15 years, and the law prohibits the employment of children under age 13 in any type of work. Children between 13 and 15 years are permitted to engage in “light work,” as prescribed the Ministry of Labor, which will not disrupt their education or be harmful to their health. The ministry’s child labor unit was responsible for monitoring and controlling child labor.

The labor ministry assisted the Office of Health and Safety in child labor enforcement efforts. The CDA is responsible for carrying out investigations of abuse. According to CDA officials, resources to investigate exploitive child labor were insufficient. Children under the age of 12 peddled goods and services, begged on city streets, worked on plantations, farms, and construction sites, as well as in gardens, shops, and markets.

*e. Acceptable Conditions of Work.*—The government sets the minimum wage in a transparent process after receiving recommendations from the tripartite National Minimum Wage Advisory Commission. The minimum wage was J\$4,070 (approximately \$46) per week for all workers except private security guards, whom some companies insisted were contractors. Several cases were before the courts to determine whether security guards were contractors or employees. The minimum wage did not provide a decent standard of living for a worker and family, but most workers were paid more than the legal minimum. The Ministry of Labor administered and enforced the minimum wage.

The law provides for a standard 40-hour workweek and mandates at least one day of rest per week. Work in excess of 40 hours per week or eight hours per day must be compensated at overtime rates, a provision that was generally respected, except by some security guard companies. The law does not prohibit excessive compulsory overtime, and some employees, including security guards, regularly were required to work 12-hour shifts without overtime compensation. There were differing practices among security guard companies, but workers were generally not paid for overtime unless they worked more than 12 hours.

The Ministry of Labor’s Industrial Safety Division sets and enforces industrial health and safety standards, mainly through factory inspections. Insufficient staffing in the Ministries of Labor, Finance, National Security, and Public Service contributed to the difficulties in enforcing workplace regulations. The Industrial Safety Division conducted inspections, investigated accidents, warned violators, and gave them a time period in which to correct the violation. If the violation was not corrected within that time, the violator was taken to court. However, inspectors did not regularly and sufficiently monitor health and safety standards.

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.

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## MEXICO

Mexico, with a population of approximately 111 million, is a federal republic composed of 31 states and a federal district, with an elected president and bicameral legislature. President Felipe Calderon of the National Action Party was elected in 2006 to a six-year term in generally free and fair multiparty elections. The country continued its fight against organized crime, which involved frequent clashes between security forces and drug traffickers. As the government brought enforcement pressure against drug-trafficking organizations (DTOs), both the DTOs and gangs

within them battled each other for control of trafficking routes and markets, causing more than 8,000 drug related homicides during the year, as well as clashes between DTOs and security forces. Civilian authorities generally maintained effective control of the security forces. There were instances in which elements of these forces acted outside of the government's policies.

The government generally respected and promoted human rights; however, the following problems were reported during the year by the country's National Human Rights Commission (CNDH) and other sources: unlawful killings by security forces; kidnappings; physical abuse; poor and overcrowded prison conditions; arbitrary arrests and detention; corruption, inefficiency, and lack of transparency that engendered impunity within the judicial system; confessions coerced through torture; violence and threats against journalists leading to self-censorship. Societal problems included domestic violence, including killings of women; trafficking in persons; social and economic discrimination against some members of the indigenous population; and child labor.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The federal government or its state agents did not commit any politically motivated killings; however, there were reports that security forces, acting both within and outside the line of duty, killed several persons, including minors, during the year.

In its effort to dismantle the country's DTOs, the government deployed approximately 50,000 army troops in 10 states. The command and control arrangements for those deployments varied. In the two highest-profile deployments in Tijuana and Ciudad Juarez, the government focused on ensuring that civilian law enforcement agencies played a lead or coordinated role in security operations.

According to the CNDH, more than 8,000 persons were killed in drug-related violence during the year. Also according to the CNDH, human rights complaints were filed against the military, the Secretariat of Public Security (SSP), and the Attorney General's Office (PGR) across the country during the year. Killings allegedly involving government security forces include the following:

On January 9, two Preventive Federal Police (PFP) officers opened fire against a vehicle that was transporting 26 migrants from various countries, after the vehicle failed to stop at a checkpoint. The gunfire killed two women and a man and injured eight others. At year's end the case remained under investigation.

On February 13, three men identifying themselves as ministerial police officers abducted Raul Lucas Lucia and Manuel Ponce Rosas, the president and secretary respectively of the Organization for the Future of the Mixtec People (OFPM) in Ayutla de los Libres, Guerrero. On February 21, their bodies, showing signs of torture, were discovered near the neighboring township of Tecoanapa. A few months before the abduction, the OFPM alleged it had received death threats after it accused the army of committing human rights abuses in cases occurring in 2002 and 1998 (see section 6, Indigenous People). Local human rights organizations alleged that state officials were responsible for the torture and killing. The Office of the UN High Commissioner on Human Rights (OHCHR), the Inter-American Commission on Human Rights (IACHR), and Amnesty International (AI) denounced the killings and warned of army abuses in Guerrero's Savi region. Five days after the forced disappearance was reported, on February 18, authorities initiated an investigation into the case, which was pending at year's end.

On May 5, the bodies of civilians Miguel Angel Gama Habif, Israel Ayala Ramirez, and Aaron Rojas de la Fuente, who were detained by soldiers on March 17, were found near Nuevo Laredo, Tamaulipas. On May 8, the Secretariat of Defense (SEDENA) acknowledged responsibility and announced that 12 members of the army's First Regiment of the Motorized Cavalry, Eighth Military Zone, had been formally indicted for the killings.

On June 20, members of the 93rd Infantry Battalion based in Tlapa de Comonfort, Guerrero, killed Naua Bonfilio Rubio Villegas at a military checkpoint located in Huamuxtitlan. While searching and inspecting a bus, the soldiers identified an individual wearing military-style boots and detained him for questioning. After the soldiers signed the bus driver's manifest to account for the detention, they signaled for the driver to leave, but another group of soldiers fired at the bus as it was departing, killing passenger Bonfilio Rubio. The army assumed jurisdiction of the case. In July the army arrested a soldier, who remained imprisoned at year's end; in October the army offered compensation to the family of the victim. Human rights non-governmental organizations (NGOs), drawing on reports of eyewitnesses, including

the detainee, disputed SEDENA's conclusion that soldiers first shot into the air and fired at the bus only when it did not stop at the checkpoint.

On July 17, soldiers from the army's First Regiment Motorized Cavalry (Eighth Military Zone) in Nuevo Laredo, Tamaulipas, shot and killed 18-year-old Jorge Eduardo de Leon Vela while he was going to work. After the shooting the victim was taken to the hospital and kept under military guard. His wife found a patient in a local hospital with characteristics similar to those of her husband, whom soldiers had registered under another name. She was not allowed access to identify him. Two days later the victim died and was transferred to a local funeral home. When the mother and the wife of the victim went to claim the remains, they were interrogated and briefly detained. They never received an official explanation. A subsequent SEDENA press release claimed that the victim possessed drugs and weapons, assertions that were questioned by the victim's relatives and human rights organizations.

During the year the CNDH issued to SEDENA 30 recommendations (certifications that a case merits further investigation or sanction) concerning allegations of human rights violations committed by armed forces members during counter-narcotics operations, compared with 14 in 2008. The military accepted 19 of the recommendations and affirmed its commitment to collaborating with the CNDH on outstanding investigations.

Human rights organizations, including Human Rights Watch (HRW), criticized SEDENA for a lack of transparency in the information it makes available to the public. On July 23, the military announced that it had prosecuted and sentenced 12 soldiers for unspecified offenses since 2006 and that another 53 soldiers were under investigation for alleged abuses. However, in November in response to questions by HRW concerning this claim, the secretary of governance, Fernando Gomez Mont, clarified that only one soldier had been convicted in the course of the Calderon administration. At year's end no additional information was provided on the 53 other soldiers SEDENA cited as being under investigation.

There were a number of killings that may have been politically motivated. In June the CNDH issued a recommendation to the governor of Oaxaca, the PGR, and the Oaxacan State Congress for further investigation of the April killing of Beatriz Lopez Leyva, a Democratic Revolutionary Party (PRD) leader who was the victim of previous attacks and had requested protection. On August 20, armed assailants killed Armando Chavarria Barrera, the leader of the Guerrero State Congress and PRD gubernatorial candidate.

During the year the military procurator general charged one soldier with homicide in the January 2008 case from the 12th Infantry Battalion in Michoacan; the soldier reportedly opened fire on a pick-up truck, killing minor Victor Alfonso de la Paz Ortega and injuring Juan Carlos Penalzo Garcia.

There were no reported developments, and none were expected, in the February 2008 case of the killing of Sergio Meza Varela and the wounding of Jose Barboza Ramirez by soldiers in Tamaulipas.

There were no developments in the March 2008 case in which soldiers in Badiraguato, Sinaloa, without apparent cause, opened fire on a car, killing four persons.

There were no developments in the June 2008 incident when military officials in Chihuahua opened fire against a vehicle, killing two occupants of the vehicle, a soldier, and a bystander. SEDENA maintained that the vehicle failed to stop at a checkpoint and ran over a soldier.

There were no known developments in the investigation into the July 2008 killing by security forces of 17-year-old Guillermo Soto Garcia in Aguascalientes or the investigation into the 2007 shooting and killing of a civilian family at a checkpoint in Sinaloa.

In October the Supreme Court ruled that Oaxaca governor Ulises Ruiz Ortiz was responsible for the human rights abuses committed during the 2006 political conflict in the state of Oaxaca. An estimated 26 civilians were killed during the unrest, including U.S. journalist Bradley Will. The ruling did not impose any binding consequences, including legal sanctions.

An estimated 10,000 private security firms operated in the country, of which 80 percent reportedly did not meet legal registration requirements. This large presence of the private sector in security led to concerns about vigilantism. In November the mayor of San Pedro Garza Garcia, a wealthy suburb outside Monterrey, Nuevo Leon, sharpened those concerns when he conveyed public support for extralegal means of combating organized crime. Later he made public statements concerning the killing of suspected narcotics traffickers several hours before their bodies were discovered in Mexico City. The country's political establishment, including President

Calderon, sharply criticized the mayor and publicly pledged strong support for the rule of law.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances at the federal level; however, there were multiple reports of forced disappearances by the army and police. Most occurred in the course of anticrime operations. In several cases of reported disappearances, security forces had detained the missing persons incommunicado for several days.

SEDENA was investigating the case of the disappearance of Isaias Uribe Hernandez and Juan Pablo Alvarado Oliveros, two veterinarians who went missing on April 5 while driving in Torreon, Coahuila. Family members presented complaints to the Coahuila State Human Rights Commission and state authorities. They alleged that SEDENA officials were responsible for the disappearances. SEDENA stated it had no information that military personnel were involved in the incident but were nevertheless investigating the case.

In July the CNDH recommended to SEDENA that it investigate the November 2008 case of brothers Jose Luis and Carlos Guzman Zuniga, who disappeared in Ciudad Juarez after being detained in their house by soldiers, according to many eyewitness accounts. In its initial investigation, the SSP provided the CNDH documentation indicating that the two brothers were taken to the military installation for questioning. SEDENA denied involvement in the case. The whereabouts of the Guzman brothers remained unknown at year's end.

In February the CNDH recommended that SEDENA investigate the case of ecologist Javier Torres Cruz from Petatlan, Guerrero, who was allegedly detained in December 2008 by soldiers from the 19th Battalion and reappeared after 10 days with evidence of physical abuse. In June 2008 the PGR in Mexico City had reopened the case of the 2001 killing of human rights lawyer Digna Ochoa and implicated the former mayor of Petatlan, Guerrero, Rogaciano Alba Alvarez, in the case; thereafter soldiers reportedly threatened and harassed Torres Cruz, his family, and the community of La Morena. Many human rights organizations expressed concerns for the safety of the victim and his relatives. By year's end there was no known investigation by SEDENA.

In April several members of the government commission established in 2008 to review the disappearance of two Popular Revolutionary Army members in 2007 resigned due to frustration with the government for failing to investigate thoroughly.

Kidnapping remained a serious problem for persons of all socioeconomic levels. According to Mexico United Against Delinquency's (MUCD) annual report, kidnappings rose from 325 in 2005 to 820 in 2008. Express kidnappings, in which a victim is detained for a short period to extract payment, often through forcing the victim to use an ATM card to drain a bank account, remained a problem. Many kidnapping cases continued to go unreported, as families feared repercussions and often negotiated directly with kidnappers. Informed observers believed the number of cases reported to authorities was far less than the actual number of kidnappings. The Institute for Crime Studies reported that 22 percent of citizens feared the consequences of reporting crime. The MUCD report affirmed that there were credible reports of police involvement in kidnappings for ransom, primarily at the state and local level.

The CNDH reported that between September 2008 and February 2009, approximately 10,000 migrants were kidnapped as they attempted to cross the border into the United States. According to the Casa del Migrante and other NGOs, the government did not respond adequately to migrant kidnappings. Many migrants were reluctant to report such crimes out of fear of being deported.

On September 7, authorities arrested six individuals, three of them Federal Ministerial Police officers, in connection with the June 2008 kidnapping and killing of minor Fernando Marti and his bodyguard. In November the PGR announced the arrest of Abel Silva Petriciolet in connection with this crime as well as an additional 36 kidnappings.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and other cruel, inhuman, or degrading treatment and stipulates that confessions obtained through illicit means such as torture are not admissible as evidence in court; similarly inadmissible is any confession made directly to police. To be admissible a confession must be formally recorded before a prosecutor with the acknowledgement that it is being made voluntarily and after examination by a doctor confirming that the person has not been subjected to physical abuse. By year's end Congress had not enacted implementing legislation for the June 2008 justice reform act, which diminishes reliance on confessions by requiring that they be made before a judge.

The government took steps to implement preventive measures against the practice of torture, including applying, at the federal level, the Istanbul Protocol, which contains guidance on investigating and documenting torture and other abuses. According to the PGR, 12 of the country's 31 states have ratified the protocol and established consultant and evaluation offices. In addition the PGR said it has provided training on human rights and torture to its local, state, and federal staff. The National Mechanism to Prevent Torture under the CNDH made 48 visits to prisons and detention centers nationwide. During the year the CNDH conducted 75 human rights-related courses for SEDENA, 95 for PGR, 95 for SSP, and 18 for prison officials; the courses included sections on torture.

During the year the CNDH received 1,105 complaints of cruel or degrading treatment and 33 torture complaints, compared with 588 complaints of cruel or degrading treatment and 21 torture complaints in 2008. During the year the CNDH made 30 recommendations to SEDENA, of which SEDENA accepted 19; in the majority of the 30 recommendations the CNDH cited arbitrary detention and torture. In at least three cases, the CNDH verified that army doctors or other members of the military falsified evidence to cover up abuses.

While some law enforcement officials were punished for lesser offenses, human rights groups linked physical abuse to the pervasiveness of arbitrary detention. Despite the law's provisions to the contrary, NGOs reported that police and prosecutors attempted to justify arrests by forcibly securing confessions to a crime.

In March soldiers from the 28th Infantry Battalion of the Second Military Zone in Baja California detained and tortured 25 Tijuana municipal police, using electric shocks, beatings, and asphyxiation to force the police to make self-incriminating statements that were used to charge them with crimes. The officers were transported to a state prison in Nayarit on May 7. A complaint was made to the CNDH and an investigation was opened to determine the soldiers' responsibility for the alleged abuses.

On June 9, AI publicized the case of the communities of Puerto de las Ollas, Las Palancas, and El Jilguero in the state of Guerrero, inhabited by approximately 100 subsistence farmers. In a five-day period, 500 soldiers reportedly committed abuses, including illegal raids, theft, damage to property, threats, harassment, physical aggression against a pregnant woman, and pointing firearms at children. There were two reports of torture during the raid: Omar Garcia, age 14, and Cesar Acosta Avila, a young man with brain injuries, were blindfolded, beaten, given electric shocks, partially suffocated with a plastic bag, and threatened with castration by soldiers. Human rights organizations of Guerrero (Guerrero Human Rights Commission and the Tlachinollan Mountain Center for Human Rights) documented these cases, and the military's investigation reportedly continued at year's end.

Early in the year, military prosecutors closed the 2007 case of arbitrary detentions and torture of Jesus Picaso Gomez and Antonio Paniagua by soldiers from the 37th Infantry Battalion of Michoacan; the case was closed for lack of evidence despite the documented medical report of physical abuse. Although military investigators concluded that there was no evidence that soldiers committed any crime, SEDENA indemnified the victims.

There were no known updates in the Chihuahua state attorney general's complaint with SEDENA and the PGR regarding army soldiers in Ciudad Juarez who allegedly detained local police officers and abused female officers.

The CNDH continued investigating allegations that three individuals detained by federal authorities in connection with the September 2008 grenade attack in Morelia, which killed eight civilians, had been tortured while in custody.

Although SEDENA accepted the CNDH's recommendation and agreed to investigate, there were no known developments in a 2007 case involving arbitrary detention and alleged torture of seven adults and one child by military officials at a military base in Michoacan.

With respect to the 2006 San Salvador Atenco confrontation between local vendors and state and federal police agents in Mexico State during which two individuals were killed and more than 47 women were taken into custody with many allegedly raped by police officials, 21 policemen initially were investigated at the state level, of whom 15 were exonerated and five remained under investigation. In June an appeals court acquitted the only police officer convicted in the case. According to AI Mexico and the Miguel Agustín Pro Juárez Center, none of the 2,500 police officers who participated in the Atenco Operation had been convicted of any crime. In February the Supreme Court (SCJN) issued a nonbinding finding that grave human rights violations occurred in Atenco and on September 22 sent the case back to the state; it remained pending there and in the IACHR at year's end. The Office of the Special Prosecutor for Violence Against Women and Trafficking in Persons (FEVIMTRA) declined jurisdiction over the case in September.

*Prison and Detention Center Conditions.*—Prison conditions remained poor. During the year the CNDH and NGOs reported that corruption, overcrowding, prisoner abuse, alcoholism, and drug addiction were prevalent in most facilities. Health and sanitary conditions were poor, and most prisons did not offer psychiatric care. Poorly trained, underpaid, and corrupt guards staffed most prisons. Authorities occasionally placed prisoners in solitary confinement for indefinite periods. Prisoners often had to bribe guards to acquire food, medicine, and other necessities. Prison overcrowding continued to be a common problem. According to the SSP, in December there were 224,749 prisoners in 440 facilities, approximately 30 percent above capacity. Approximately 95 percent of those inmates were men. In its Strategic Plan for 2008-12, the SSP described the penitentiary system as “one of the most underdeveloped and abandoned components of public security.”

Overcrowding contributed to hunger strikes and prison riots. In March, 20 inmates died when two rival gangs clashed in a prison in Ciudad Juarez, Chihuahua. In August another fight between armed inmates in Durango left 19 dead and more than 20 injured. In Mexico City dozens of inmates were injured when hundreds of prisoners rioted to protest living conditions and the limitation of visits during the H1N1 outbreak in May.

The SSP reported that between September 2008 and December 2009, 200 inmates died in prison, 532 were injured, and 142 escaped.

The CNDH noted that conditions for female prisoners were inferior to those for men, particularly for women who lived with their children in prison. There were anecdotal reports of sexual abuse of women while in detention. Pretrial detainees were routinely held together with convicted criminals.

The government permitted independent monitoring of prison conditions by human rights organizations. The International Committee of the Red Cross, the CNDH, and state human rights commissions visited detainees during the year. The CNDH reported making 99 prison visits during the year in addition to 48 in conjunction with the National Mechanism to Prevent Torture. Separately, the CNDH opened 460 complaint cases based on concerns about human rights violations against prisoners. The CNDH also received 35 complaints of “cruel treatment” but none for torture of prisoners.

The federal government worked to improve prison conditions by implementing its 2008-12 strategic plan focused on security, rehabilitation, and education. During the year the SSP trained 473 new corrections officials, 107 technical staff, and 51 administrative staff. The government designated approximately \$6.8 billion pesos (\$500 million) in the fiscal year for prison construction, upgrades, and reform. Much of that funding was dedicated to the construction of two new centers and renovation of four others that continued at year’s end. The SSP also worked towards developing a new classification system and a new unit to oversee the classification process. To this end, the SSP trained 72 new classification staff and also opened the new Federal Corrections Officer Training Academy in Veracruz in May.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention as well as sponsoring or covering up an illegal detention. However, the CNDH reported receiving 1,289 complaints of arbitrary arrests and detentions during the year.

On January 16, the army detained Arnulfo Anaya, Luis Carlos Perez, and Juan Ramon Castillo near Castillo’s home in Chihuahua. The CNDH determined that the soldiers held the men for nearly 36 hours before turning them over to local authorities and tortured Luis Carlos Perez. The CNDH also reported that the army’s medical personnel helped cover up the abuses by failing to report Perez’s injuries properly. Authorities charged the three men with drug possession, but it was unknown whether any investigation was initiated into the alleged abuses by the military.

At the state level, 53 complaints of arbitrary detention were filed with the Chihuahua State Human Rights Commission against the army and federal police operating under the auspices of Joint Operation Chihuahua, a government effort to attack organized crime and to stop executions in the state of Chihuahua. As of July the Michoacan State Human Rights Commission registered 400 human rights complaints against the military, more than the total for all of 2008, mainly in connection with illegal searches, arbitrary detention, robbery, and mistreatment.

*Role of the Police and Security Apparatus.*—The country has an estimated 2,600 police forces with approximately 400,000 officers operating at the municipal, state, and federal levels. During the year the government deployed approximately 50,000 military in 10 states to support, and in some municipalities to coordinate, the fight against the country’s well-armed and well-funded organized criminal groups. The government continued its long-term effort to reform and improve the country’s police



organizations, with the goal of replacing the military in its domestic law enforcement function.

The police forces traditionally are divided into two functional groups: a uniformed “preventive” police that seeks to maintain public order and deter crime through a visible public presence and an “investigative” police force responsible for crime scene preservation and investigation once a crime has been committed. These functional divisions exist at all levels of government—federal, state, and municipal. Both the PGR and the SSP have investigative police.

A law approved on May 29 created a new federal investigative police force, the Federal Ministerial Police (PFM), which falls under the command of the Attorney General’s Office. The PFM replaces the Attorney General’s Federal Investigative Agency. Additionally, on April 30, Congress passed a new Federal Police Law that strengthens the Federal Police, which falls under SSP authority, and gives it limited investigative and intelligence-gathering abilities.

President Calderon remarked in speeches in March and October that corruption was a serious problem in the police forces and a primary reason for the use of the military in the domestic counternarcotics fight. The CNDH reported that police, especially at the state and local level, were involved in kidnapping, extortion, and in providing protection for, or acting directly on behalf of, organized crime and drug traffickers. Local forces in particular tended to be poorly compensated and directly pressured by criminal groups, leaving them most vulnerable to infiltration. According to a 2009 HRW report in impunity in the country, impunity was pervasive; this lack of accountability contributed to the continued reluctance of many victims to file complaints. Responsibility for investigating federal police abuse falls under the purview of the PGR or the Secretariat of Public Administration, depending on the type of offense.

To better manage the corruption problem, in January the government enacted legislation establishing a four-year deadline to vet personnel in all of the country’s 2,600 police forces using a series of testing mechanisms. The legislation requires all police forces to meet certain compensation and training standards, and it also makes it easier for authorities to fire corrupt or unfit officers. In addition to rooting out corruption at the federal level through “Operation Cleanup,” the government led anticorruption operations in several states. On May 26, federal authorities arrested 10 mayors, a judge, and 16 law enforcement officers in the state of Michoacan for ties to drug trafficking. At least 12 of these officials were later released for lack of evidence against them. SSP officers arrested 92 police officers in the state of Hidalgo on June 26 for protecting a DTO. Also in June the military arrested more than 70 local and state law enforcement officers with presumed ties to organized crime.

The CNDH received 14,633 complaints during the year, including 2,178 complaints against the SSP, which upon investigation produced a finding of 667 violations in categories that included arbitrary detention (244), noncompliance with arrest warrant procedures (177), and cruel and inhuman treatment (245). Significantly more than half the complaints received were resolved by inter alia reorienting the complainant to the proper authority (1,722), suspending an investigation for lack of evidence (222), and reaching an amicable agreement (49). Three complaints involving violations pertaining to treatment in prison and arbitrary detention resulted in recommendations calling on the SSP to make amends with victims and adopt procedural measures to comply with its obligations.

In seeking to improve human rights practices, the SSP during the year conducted 131 courses specifically on human rights or with modules pertaining to the topic, training a total of 19,048 personnel. In the SSP training academy in San Luis Potosi, human rights were institutionalized as a standard part of the curriculum. The SSP also worked with the International Organization for Migration to hold three courses training 112 federal police officers. With experts from the ICRC, the SSP held two courses to train 24 personnel. Additionally, the CNDH trained 4,344 SSP officials. The SSP in collaboration with the National Autonomous University of Mexico also continued to provide human rights training to federal police officers throughout the country. Separately, the CNDH provided training to approximately 3,600 PGR personnel.

According to the CNDH, the military’s domestic law enforcement deployment led to an increased number of reported human rights abuses, and human rights NGOs complained that an opaque military justice system led to impunity.

A November decision by the Inter-American Court of Human Rights in the Rosendo Radilla Pacheco case found the use of military courts to try human rights cases involving civilians deficient and issued a binding ruling calling for the country to evaluate and reform this process. In July the local office of the OHCHR signed

an agreement with SEDENA to work with the military on human rights issues including developing human rights training programs and indicators.

SEDENA's Directorate General for Human Rights investigates military personnel for violations of human rights identified by the CNDH and promotes a culture of respect for human rights within the institution. Nevertheless, the directorate has no power to ensure allegations are properly tried and prosecuted. Human rights NGOs such as CenterProdh complained about a lack of access to the directorate and maintained it had done little to improve SEDENA's human rights performance. In a July 23 press conference, the director of SEDENA's Human Rights Directorate, General Lopez Portillo, stated that the increase in complaints against SEDENA were related to its lead role against organized crime but also claimed that many complaints were filed by lawyers on behalf of criminals apprehended by the army to slow their trials and besmirch the army's reputation.

The CNDH provided human rights training to approximately 11,000 military personnel during the year. In 2008 SEDENA reported that 860 soldiers participated in 14 courses centered on human rights, 83,992 officials attended 610 conferences, and 56,776 soldiers attended 718 lectures. Additionally, SEDENA routinely included in its operations directives to promote respect for human rights during operations.

*Arrest Procedures and Treatment While in Detention.*—In most cases persons must be presented to a judge, along with sufficient evidence to justify their continued detention, within 48 hours of their arrest. According to many NGOs, in practice there were violations of this 48-hour provision. The Michoacan State Human Rights Commission, for example, stated that the majority of complaints it received during the year about illegal detention (193) and deprivation of freedom (93) also included this violation.

In organized crime cases (involving three or more persons who organize themselves for the purpose of committing certain crimes), suspects may be held for up to 96 hours before being presented to a judge. Only the federal judicial system can prosecute organized crime cases. However, recognizing the complex nature of organized crime, the legislation stipulates that, under a procedure known as arraigo, certain suspects may, with the approval of a judge, be detained for up to 80 days prior to the filing of formal charges. Human rights NGOs considered this form of pretrial detention a violation of due process that facilitated torture, and some groups alleged it was used to obtain forced confessions. In February the Universal Periodic Review by the UN Human Rights Council recommended ending this practice, but the government rejected the recommendation.

In areas involving military operations against DTOs, SEDENA personnel detained individuals without the involvement of state or federal investigators with the authority to collect evidence for use in subsequent prosecutions. Additionally, the PGR claimed it was not always notified in a timely manner of the detentions, which complicated efforts to prosecute and convict arrestees.

On November 5, the IACHR held a special session on public safety and human rights in Tijuana and heard the cases of alleged torture and human rights abuses in arraigo by military members or police officers, including the following three cases:

On June 24, 28th Infantry Battalion soldiers detained and tortured two former ministerial police officers from Baja California. Soldiers allegedly tried to force them to sign self-incriminatory confessions of extortion and crime participation, but they refused. The victims were sent to the II Military Zone installation (28th Infantry Battalion headquarters) by the Baja California state attorney, Rommel Moreno Manjarrez, and local internal affairs officers. The two former police officers presented a complaint to the CNDH against II Military Zone commander General Jorge Alonso Garrido for allowing arbitrary detentions and torture; in the absence of a satisfactory response, they presented their case to the IACHR.

In September Tijuana municipal public security secretary Julian Leyzaola Perez and chief of police Gustavo Huerta Martinez summoned 11 municipal police officers from Tijuana and sent them to the II Military Zone installation (28th Infantry Battalion headquarters) for questioning about possible connections to organized crime. While the investigation was still in process, SEDENA presented the detainees to the public as members of a drug cartel.

In both cases the victims were held incommunicado for several days, and the authorities refused to provide information on their status. The victim's relatives were intimidated and threatened by the local authorities for publicizing abuses. The two groups of police officers were transferred to Nayarit's high security prison El Rincon.

On July 13, soldiers detained without formal charges 20 police officers from Nuevo Leon. The police officers were reportedly tortured and forced to admit they belonged to organized crime.

The law provides time limits within which an accused person must be tried. However, due to caseloads that far exceeded the capacity of the federal and the fact that

most state judicial systems still used the written inquisitorial criminal justice system, such time limits often were disregarded. HRW reported that more than 40 percent of prisoners have never been convicted of a crime but were held in pretrial detention, often for years, waiting for a trial. Pretrial release on bond is supported by the 2008 reforms, but in jurisdictions that have not implemented the reforms, it was available only in cases in which the charges were not considered a serious crime.

While detainees usually were allowed prompt access to family members and to counsel, there were complaints that in some cases police held persons incommunicado for several days and made arrests arbitrarily and without a warrant. Human rights NGOs documented, and the CNDH issued several recommendations confirming, that the army frequently detained civilians for extended periods of time before placing them at the disposition of civilian authorities.

*e. Denial of Fair Public Trial.*—Although the judiciary is independent, weaknesses in the system, particularly in jurisdictions where reforms have not been implemented, make court decisions susceptible to improper influence by both private and public entities, particularly at the state and local level. Civil society organizations reported that corruption, inefficiency, and a lack of transparency continued to be major problems in the judiciary. NGO representatives reported that the country's conviction rate was only between 1 and 2 percent, citing a general indifference and ineffectiveness of the justice system. A poll conducted by Grupo Reforma and published in a Mexico City daily in August found that 68 percent of respondents had no or little trust in the judiciary.

The federal court system consists of the Supreme Court, 91 circuit courts of appeal, 49 courts of appeal, and 185 district courts. State judicial systems consist of trial-level courts and appeals courts with jurisdiction over family, criminal, civil, and administrative matters.

The government defended military jurisdiction in cases involving civilians, navigating an apparent contradiction between the constitution and the Military Code of Justice. The constitution states that military jurisdiction applies to “crimes against military discipline” but that military tribunals have no jurisdiction over people who do not belong to the army. However, Article 57 of the code defines crimes against military order as “state or common offenses that have been committed by active duty military.” Historically, the military assumed the lead for trying and investigating cases of alleged human rights violations involving military personnel, and the Supreme Court appeared reluctant to challenge that claim.

In cases in which a member of the military is arrested by civil authorities, the military may request the immediate transfer of the case to military jurisdiction. Traditionally, civilian judicial authorities grant jurisdiction to the military in all cases involving soldiers. NGOs, such as CenterProdh, maintained that human rights abuse cases involving military personnel were not handled transparently by the military justice system, giving rise to concerns about impunity in these cases. According to information obtained from the government through an access to information request, only 11 out of 174 such cases (from 2006 through November 2008) resulted in indictments, with only one conviction, which was under appeal at year's end.

On August 10, the Supreme Court ruled that the wife of a victim of a March 2008 military shooting in Badiraguato, Sinaloa, did not have the right to contest military jurisdiction.

In a decision rendered December 15, the Inter-American Court of Human Rights described Article 57 as “broad and imprecise” and while noting active military personnel may be implicated in crimes, determined that “this is not [a sufficient standard] to apply military jurisdiction.” The ruling further described Article 57 as “incompatible with the American Convention [on Human Rights].” The court concluded that the country “should adopt, within a reasonable time period, the pertinent legislative reforms to make Article 57 compatible with international standards and the American Convention.” Additionally, SEDENA formed a commission to draft the criminal procedural code to uphold the 2008 constitutional reform and move to an oral accusatorial system.

*Trial Procedures.*—The legal system is a hybrid system. While it incorporates some aspects of common law and accusatory-style systems, it draws primarily from traditional European code-based, inquisitorial systems. The 2008 constitutional criminal justice reforms mandated implementation of an oral adversarial system and the presumption of innocence by 2016. At year's end eight states had passed legislation and were at various stages of training and implementation, three states were legislating reforms, and seven states sought assistance to consider the reforms. Under the old system, still being used by the federal government, the federal district, and 22 states, a typical trial consists of a series of fact-gathering hearings dur-

ing which the court receives documentary evidence or testimony. 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 involved have access to the official file and only by special motion.

The 2008 constitutional criminal justice reform establishes that defendants enjoy a presumption of innocence; however, such rights are not guaranteed in jurisdictions that have not finished with reform implementation and are still operating under the inquisitorial system.

The new constitutional reform provides for the right of the accused to attend the hearings and challenge the evidence or testimony presented and the government generally respected these rights in practice. In most cases court hearings were open to the public.

While the law provides defendants with the right to an attorney at all stages of criminal proceedings, in practice this only meant that authorities had to appoint a "person of confidence," who was not required to meet any particular legal qualifications, to represent a defendant. Because of the nascent implementation stage of the 2008 reforms, only some public defenders had preparation and training to serve adequately on the defendants' behalf, and often the state public defender system was not adequate to meet demand. Public defender services were placed either in the judicial or executive branch; there were rarely autonomous public defender services. According to AI, most criminal suspects did not receive representation until after they were placed under judicial authority, thus making individuals vulnerable to coercion to sign false statements before being presented to a judge.

Although the law provides for translation services from Spanish to indigenous languages to be available at all stages of the criminal process, this generally was not done due to limited resources. Indigenous defendants who did not speak Spanish sometimes were unaware of the status of their cases, and some suspects were convicted without fully understanding the documents they were required to sign.

On August 12, the Supreme Court ordered the release of 29 of the 57 persons imprisoned for involvement in the 1997 massacre of 45 persons in Acteal, Chiapas, and ordered retrials for 22 others, five of whom had confessed to the crime. The court found that the PGR had fabricated evidence and deprived the accused of their right to a fair trial. Some human rights organizations criticized this decision, but legal experts welcomed the decision as evidence of the court's commitment to due process in the investigation of crimes.

On September 16, Jacinta Francisco Marcial was released from jail on appeal for irregularities in her trial, including falsification of evidence and not having a translator during the trial. She and two other indigenous women (whose appeals remained pending at year's end) were sentenced in December 2008 for allegedly kidnapping six armed federal police agents. NGOs described the case as an example of authorities using the judicial system to retaliate against social protests.

Despite enactment of judicial reform legislation in June 2008, judges, particularly in areas that had not yet implemented the reforms, reportedly continued to allow statements coerced through torture to be used as evidence against the accused, a practice particularly subject to abuse because confessions were often the primary evidence in criminal convictions (see section 1.c.). NGOs asserted that judges often gave greater evidentiary value to the first declaration of a defendant, often given in the absence of legal representation. This provided prosecutors an incentive to obtain an incriminating first confession and made it difficult for defendants to disavow such declarations. For their part law enforcement officials complained that defendants frequently made baseless claims of coerced confessions as a way to win acquittal.

The 2008 justice reform facilitates transition to an oral trial system establishes strict guidelines on the use of confessions, evidence, and expert testimony; allows consensual monitoring of telephone calls; and gives police more responsibility for conducting investigations. The reform stipulates that all hearings and trials must be conducted by a judge and under the principles of public access, immediacy, confrontation, and cross-examination, promoting greater transparency and allowing defendants to challenge their accusers. Constitutional reforms associated with the new justice system were ratified by the congresses of 24 states in support of its passage.

All state and federal jurisdictions must now legislate to conform to the new judicial system and implement oral trial procedures by 2016. Criminal procedural codes in the states of Chihuahua, Oaxaca, Zacatecas, Baja California, Durango, Mexico State, Veracruz, and Morelos already permit oral trials for crimes. Nuevo Leon permits oral trials for misdemeanors. However, not all have trained the judiciary and police in implementation. States where implementation was taking place were doing so in phases, implementing district by district over several years. At year's end the

Federal Congress had not passed criminal procedural code legislation necessary for the implementation of the reforms at the federal level.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees; however, AI and the UN High Commissioner for Refugees (UNHCR) criticized the government for arbitrarily detaining and imprisoning some indigenous members of the Organization of Indigenous Me'phaa People (OPIM) for their membership in that group and for orchestrating protests against abuses (see section 6, Indigenous People). In April 2008 authorities detained and charged Manuel Cruz, Orlando Manzanarez, Natalio Ortega, Romualdo Santiago, and Raul Hernandez with the January 2008 murder of Alejandro Feliciano Garcia, an army informant, in the town of El Camalote, Guerrero. Human rights activists asserted the charges were based on fabricated evidence. AI named the five individuals prisoners of conscience. The Tlachinollan Mountain Center for Human Rights defended the five in court and eventually secured the release of all except Raul Hernandez, who at year's end remained in prison while his trial continued.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, including access to a court to seek damages for a human rights violation. However, for a plaintiff to secure damages against a defendant, the defendant first must have been found guilty in a criminal case, which was a high standard given the relatively low number of individuals convicted of human rights abuses in the country.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—Although the law prohibits such practices and requires search warrants, during the year the CNDH received 1,014 complaints of illegal searches.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Most newspapers and television and radio stations were privately owned, and the government had minimal presence in the ownership of news media.

Despite federal government support for freedom of the press, many journalists worked in dangerous environments. Reporters covering corrupt public officials and various organized criminal organizations acknowledged practicing self-censorship, recognizing the danger investigative journalism posed to them and to their families. During the year 12 journalists were killed and one disappeared.

The PGR's Office of the Special Prosecutor for Crimes Against Journalists (FEADP) accepted jurisdiction over 22 cases during the year.

On August 19, the CNDH issued seven recommendations to all of the state governors as well as to Mexico City's mayor and the attorney general. The recommendations included calls to make journalists a protected class, sanction authorities that are negligent in their investigation or prosecution of cases, guarantee the safety and support of journalists that cover high-risk and sensitive issues, and give victims of violence the right to reparations.

On May 3, four unidentified men kidnapped and killed Carlos Ortega Samper, a columnist for *El Tiempo de Durango*, who had been reporting on local government corruption.

On May 25, eight masked men kidnapped, tortured, and killed Eliseo Barron Hernandez in Gomez Palacio, Durango. Barron reported on police and crime in *La Opinion*, a newspaper based in Torreon, Coahuila. Barron's last article involved a case in which 302 police officers were fired after a corruption scandal; he also had reported on the involvement of eight of the fired officers in kidnapping.

On July 12, authorities discovered the body of Martin Javier Miranda Aviles, a correspondent for the news agency Quadratin and reporter for the daily Michoacan newspaper *Panorama*, which had published an article related to the arrest of a police officer in possession of weapons and drugs.

Three media outlet headquarters were attacked during the year. On January 6, unknown actors allegedly threw a hand grenade and shot several rounds at the facade of the Monterrey affiliate of Televisa. On August 18, unidentified assailants opened fire on the premises of newspaper *El Siglo de Torreon* in Coahuila. On September 7, a hand grenade was thrown onto the premises of weekly *Rio Doce* magazine in Sinaloa.

In the April 2008 killings of Felicitas Martinez and Teresa Bautista, reporters and commentators on a community radio station in rural Oaxaca, the FEADP passed the case to the PGR, and an investigation into the case by PGR continued at year's end.

In the June 2008 attack allegedly by police officers in the Benito Juarez Municipality of Nuevo Leon on six print and broadcast reporters covering a demonstration

against the local government, two police officers and one civilian were detained, and an investigation continued at year's end.

In the September 2008 killing of a young girl in Matamoros, Tamaulipas, by PFP officers who had opened fire on journalist Carlos Solis Reina and his companion, Luis Alberto Salas, who were arrested for the girl's death, there were no known developments in the investigation of the killing or the journalist's allegation that he and his companion were tortured on the way to SIEDO offices.

In the November 2008 shooting death in Ciudad Juarez of Armando Rodriguez, a veteran police reporter with the newspaper *El Diario*, there were no known developments.

An investigation continued at year's end into the 2007 death of Amado Ramirez, an Acapulco-based correspondent for Televisa and Radiorama. A suspect detained in 2007 remained imprisoned at year's end.

The 2006 killing of Bradley Will, a foreign filmmaker who was shot while documenting civil unrest in Oaxaca, remained under investigation. The only suspect, Juan Manuel Martinez Moreno, who in 2008 was formally charged for the crime, remained in custody. In July a team of retired independent forensic experts from the Royal Canadian Mounted Police conducted an investigation at the government's request and presented a report supporting the PGR's claim that someone in Will's close proximity shot him. (However, in 2008 Physicians for Human Rights conducted a forensic analysis that it claimed contradicted that conclusion.) In late December a federal judge ruled that the state had presented insufficient evidence to detain Martinez for Will's murder and ordered his release. At year's end the PGR indicated it planned to appeal this ruling.

In September Congress dissolved the Special Committee for Dealing with Attacks upon Journalists and News Media but reinstated it on November 10, following criticism from the media and NGOs and outrage over the November 2 kidnapping and murder of journalist Jose Bladimir Antuna Garcia in Durango. However, the NGO Article 19 continued criticizing the special committee, as only one deputy served on it, and it lacked a budget at year's end.

The law does not provide a legal framework for issuing permits to nongovernmental and noncommercial community radio stations. According to Article 19, the government closed down at least three community radio stations across the country and detained an indigenous anchor, supposedly for lacking transmission permits.

Although defamation, libel, and slander are not federal offenses, 17 states have criminal libel laws making journalists vulnerable to threats of imprisonment at the state level.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that there were approximately 25 Internet users per 100 inhabitants.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Groups that wish to meet in public areas must inform local police authorities in advance. Organized, peaceful demonstrations occurred frequently throughout the country. Unlike in the preceding year, there were no reports of violent confrontations in connection with demonstrations.

There were no known developments into charges against police officers allegedly involved in the death of six individuals during an October 2008 protest in Chiapas.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the government generally respected this right in practice. According to the NGO *Voz de los Martires*, social, cultural, and economic disputes sometimes took on religious overtones, particularly in the states of Chiapas, Guerrero, Oaxaca, and Hidalgo. Poor enforcement mechanisms, local land disputes, and family traditions contributed to discrimination against some religious groups, especially in the south.

The constitution bars members of the clergy from holding public office, advocating partisan political views, supporting political candidates, or opposing the laws or institutions of the state.

Religious associations must register with the government to apply for official building permits, receive tax exemptions, and hold religious meetings outside their places of worship. The registration process was routine.

*Societal Abuses and Discrimination.*—In the central and southern regions, according to *Voz de los Martires*, some leaders of predominantly Catholic indigenous communities regarded evangelical groups as unwelcome outside influences and as eco-

conomic and political threats. These leaders sometimes ordered or acquiesced in the harassment or expulsion of individuals belonging chiefly to Protestant evangelical groups. Whether a group was displaced forcibly or left voluntarily to avoid harassment, it often found itself living on the outskirts of another local community in circumstances worse than the extremely poor conditions common to the region.

In cases of religious disputes submitted to it, the General Directorate of Religious Associations (GDAR) in the Secretariat of the Interior attempts to mediate a solution. If mediation fails, the parties may submit the issue to the GDAR for binding arbitration.

The Jewish community numbered approximately 50,000 persons. Although the GDAR received no reports of anti-Semitic incidents during the year, there were several unconfirmed incidents reported in the local press.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government respected these rights in practice. However, according to several NGOs including AI, in the course of its operations the army occasionally restricted freedom of movement. The government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons and other persons of concern. The law does not permit forced exile, and it was not practiced.

*Protection of Refugees.*—The country is party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government provided temporary protection to individuals who may not have qualified as refugees under the 1951 Convention and its 1967 protocol; however, there were no available reports that it received such requests during the year.

Pursuant to its 2008 migration agreement with Cuba, the country repatriated 233 undocumented Cubans.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. There were occasional cases of politically motivated killings (see section 1.a.).

*Elections and Political Participation.*—The closely contested presidential and congressional elections of 2006, in which Felipe Calderon was elected president to a six-year term, were considered generally free and fair by the majority of neutral observers, including EU representatives and local and international civil society organizations. On July 5, midterm national legislative and local elections, which took place in select states, were free of significant violence or claims of fraud.

The law prohibits all public and private funding of political advertisements on television or radio outside of time slots established by a respective state, requires placement of all political campaign advertisements through the Federal Elections Institute (IFE), and stipulates allocation of airtime among registered political parties based on their share of the vote in the most recent election. The law also prohibits negative campaign messages and establishes public spending limits for presidential elections. Recognition as a national political party by IFE is based on having won at least 2 percent of the vote in the previous national election.

There were 23 women in the 128-seat Senate and 138 women in the newly elected 500-seat lower house. Two female justices sat on the 11-member Supreme Court. There were two women in the 19-member cabinet, compared with one in the previous administration. Many state electoral codes provide that no more than 70 to 80 percent of candidates can be of the same gender. All political parties continued their efforts to increase the number of women running for elected office. Some utilized quotas requiring that a certain percentage of candidates on a party list be female. However, several parties ran female candidates, known as “Juanitas,” who were not intended to serve in office. Before taking office, the parties orchestrated for the women to relinquish their positions to men. For example, after the July mid-

term elections, seven elected female deputies relinquished their seats and were replaced by men.

There were no established quotas for increased participation of indigenous groups in the legislative body, and no reliable statistics were available regarding minority participation in government. The law provides for the right of indigenous people to elect representatives to local office according to “usages and customs” law, rather than federal and state electoral law. Traditional customs varied by village. In some villages women did not have the right to vote or hold office; in others they could vote but not hold office.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the World Bank’s Worldwide Governance Indicators and other indices reflected that corruption remained a problem at all levels of government, as some public officials continued to perpetrate bureaucratic abuses and some criminal acts with impunity. Corruption at the most basic level involved paying bribes for routine services or in lieu of fines to administrative officials and security forces. More sophisticated and less apparent forms of corruption included overpaying for goods and services to provide payment to elected officials and political parties.

By the end of the year, 16 SSP and PGR officials had been indicted for corruption since the government launched Operation Cleanup in July 2008; however, none had been convicted. During the year the Customs Agency relieved more than 700 employees and replaced them with vetted officials.

Since 2007 the National Migration Institute (INM) has sanctioned approximately 300 migration officials for involvement in corruption. In May two officers assigned to the Mexico City International Airport were detained for human smuggling, and another two were detained in June for the same reason. Also in June INM’s regional director in Yucatan, Hernan Vega Burgos, resigned after being accused of corrupt activities.

Despite significant institutional and regulatory changes increasing government transparency, access to information continued to be difficult in some states. The Federal Institute of Access to Public Information (IFAI) received more than 130,000 requests for information during the year. All states have laws complying with the 2007 constitutional reforms regarding access to information. Nineteen of the 31 states, plus the federal district, have signed a formal agreement with IFAI to make the information system on government operations, Infomex, available for petitions for state government information. At year’s end the 11 other states were in the process of completing an agreement, leaving Yucatan as the only state that had not signed the agreement.

In September IFAI ordered SEDENA to make public information related to the 1998 military operation “El Charco” in Guerrero, in which 11 persons, including one student, were killed and 22 persons were detained for four years for rebellion. By year’s end SEDENA had provided no known response.

In July the CNDH brought a case before the Supreme Court challenging the PGR’s right to withhold information from the CNDH. This dispute stemmed from an unresolved conflict in the law under which the CNDH should have access to all information it needs to fulfill its human rights mandate and investigate serious cases, while the PGR claims the right under law to withhold information on current cases under investigation. At year’s end the court’s ruling remained pending.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government made periodic attempts to engage civil society, particularly on security issues but also on human rights issues, by creating and reinvigorating a variety of mechanisms that encourage civil society’s participation in policy debates and allow individuals to register complaints. Nevertheless, some NGOs complained that the government did not take their concerns sufficiently into account and that they were unable to engage in constructive human rights discussions with military officials. In December the secretary of governance responded in writing to a request by several NGOs for information on the status of seven cases involving alleged abuses committed by military officials. All of the cases were under investigation.

The UN and NGOs reported harassment of human rights defenders. According to an October report by the OHCHR, from 2006 to August 2009, there were 128 attacks—including 10 killings—against human rights activists but only two prosecutions (see section 6, Indigenous People). The report criticized government authorities



for the country's lack of comprehensive policies to reduce and eliminate the risks faced by human rights activists and recommended that the government establish a national mechanism for protection of human rights defenders. NGOs maintained that state and municipal authorities harassed defenders. Due to anonymous threats against its staff, the Tlachinollan Mountain Center for Human Rights in Guerrero closed its offices in March.

UN agencies and other international bodies freely operated in the country and publicly commented generally without restriction or sanction. In July the OHCHR signed an agreement with the government giving it a mandate to provide SEDENA with human rights assistance.

The CNDH, which was funded by the federal government, received and investigated allegations of human rights violations. The CNDH determined which cases it considered credible, and it pursued out-of-court resolutions. During the year, for example, the CNDH received 1,017 complaints against the PGR, which upon investigation generated a finding that 594 violations had occurred in categories that included arbitrary detention (270), torture (four), noncompliance with the arrest warrant (136), and cruel and inhuman treatment (184). Most of the complaints received were resolved by inter alia reorienting the complainant to another institution with the proper authority to address the complaint (793), suspending an investigation for lack of evidence (63), and forging an amicable resolution (23). Eight complaints involving violations including arbitrary detention and mistreatment resulted in recommendations calling on the PGR inter alia to take measures to address the victims' physical and psychological needs resulting from the violations, ensure the victims' future protection, consider administrative actions against the appropriate officials as recommended by the PGR's Internal Affairs Unit, and adopt procedural measures to guard against a recurrence of violations in the future. According to the CNDH, the PGR rejected four of these recommendations, accepted two, and had not yet acted on the remaining two.

The CNDH operated without government or party interference. During the year the CNDH issued 78 recommendations in connection with human rights violations. The CNDH's recommendations are nonbinding and without legal weight. Each of the country's 31 states plus the Federal District has a similar mechanism in terms of state human rights commissions, which maintain autonomy from the CNDH. Some NGOs, including HRW, praised the CNDH for bringing to light noteworthy human rights abuses but criticized it for not pressuring the government sufficiently to comply with its recommendations and for not applying international human rights standards in the area of military jurisdiction.

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

The law prohibits discrimination based on race, gender, disability, language, or social status. While the government continued to make progress enforcing these provisions, significant problems, particularly violence against women, persisted.

*Women.*—The law criminalizes rape, including spousal rape, and imposes penalties of up to 20 years' imprisonment. However, rape victims rarely filed complaints with police, in part because of the authorities' ineffective and unsupportive responses to victims, the victims' fear of publicity, and a perception that prosecution of cases was unlikely. According to the government's cabinet-level National Institute of Women (INMUJERES), 3,687 men were convicted nationwide for rape and an additional 4,467 were in pretrial detention for rape. Human rights organizations asserted that authorities did not take seriously reports of rape and victims continued to be socially stigmatized and ostracized.

Federal law prohibits domestic violence, including spousal abuse, and stipulates fines equal to 30 to 180 days' pay and detention for up to 36 hours; actual sentences, however, were normally lenient. This countrywide law obligates federal and local authorities to prevent, punish, and eradicate violence against women. Nevertheless, according to the NGO Citizen Femicide Observatory (Observatorio Ciudadano de Femicidios) domestic violence was pervasive and mostly unexposed.

State-level laws sanctioning domestic violence are weak. Seven states do not criminalize it, and 15 states only punish it when it is a repeated offense. According to a survey conducted by the National Institute of Public Health in several of the country's rural and indigenous communities, victims did not report abuses for a variety of reasons, including fear of spousal reprisal, shame, and the view that the abuse did not merit filing a complaint.

The 2006 National Survey on Household Relationships suggested that 67 percent of women over age 15 had suffered some abusive treatment. According to the Citizen Femicide Observatory, more than 1,014 girls, teenagers, and women were killed in the 19 months ending July 31, 43 percent between the ages of 21 and 40.

NGOs criticized government authorities for failing to investigate adequately, prosecute, and prevent the killings of women and girls.

In November the Inter-American Court of Human Rights found that the government denied justice to and failed to prevent the deaths of Claudia Gonzalez, Esmeralda Herrera, and Berenice Ramos, whose bodies were found near Ciudad Juarez, Chihuahua, in 2001.

According to the National Institute of Statistics and Geography, Mexico City and the 12 states of Chihuahua, Nuevo Leon, Sinaloa, Sonora, Tamaulipas, Mexico, Guanajuato, Jalisco, Morelos, Tlaxcala, Tabasco, and Yucatan experienced high rates of alleged gender-driven homicide.

FEVIMTRA—staffed by 19 legal, administrative, and technical support professionals—is responsible for leading government programs to combat domestic violence and trafficking in persons. Its work includes prosecuting the crimes, raising awareness with potential victims and government officials, and providing the only government shelter for trafficking victims. With only five lawyers dedicated to federal cases of violence against women and trafficking countrywide, FEVEIMTRA faced challenges in moving from investigations to convictions.

INMUJERES reported that its national hotline established under the National Plan for a Life without Violence received 19,959 calls during the year. Although there were some government-funded shelters, civil society and women's rights groups maintained most available shelters.

Prostitution is legal for adults and continued to be practiced widely. While pimping and prostitution of minors under age 18 are illegal, these offenses also were practiced widely, often with the collaboration or knowledge of police, according to the Coalition Against Trafficking in Women in Latin America and the Caribbean. The country was a destination for sex tourists and pedophiles, particularly from the United States. There were no laws specifically prohibiting sex tourism, although federal law criminalizes corruption of minors, for which the penalty is five to 10 years' imprisonment. Trafficking in women and minors for prostitution remained a problem.

Federal law prohibits sexual harassment and provides for fines of up to 40 days' minimum salary, but victims must press charges. Sexual harassment is criminalized in 26 of the states and the Federal District, but in only 22 of these is a punishment contemplated when the perpetrator has a position of power. According to INMUJERES, sexual harassment in the workplace was widespread, but victims were reluctant to come forward, and cases were difficult to prove.

Couples and individuals have the right to decide the number, spacing, and timing of children and have the information and means to do so free from discrimination. However, in practice such rights often were not provided. Services, information, and public policies in the area of reproductive health were limited. Despite the existence of a national family planning program, the lack of sex education and contraceptives in public hospitals and rural areas undermined the government's commitment to reproductive rights. In rural areas one of every four women did not have access to contraception, and 50 percent did not use any form of contraception, according to the National Institute of Women. A study on contraceptive use concluded that lack of access affected adolescents, women living in marginalized urban or rural areas, and migrant men. Skilled attendants at delivery and in postpartum care were widely available except in some marginalized areas. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The law provides women the same rights and obligations as men and "equal pay ... for equal work performed in equal jobs, hours of work, and conditions of efficiency." According to INMUJERES, during the year women earned 6.2 percent less than men for comparable work; however, in some occupations the disparity reached 40.3 percent.

The law provides labor protection for pregnant women. According to the Information Group on Reproductive Rights, some employers reportedly sought to avoid this law by requiring pregnancy tests in preemployment physicals and by continuing to make inquiries into a woman's reproductive status.

*Children.*—The country provided universal birth registration in principle, with citizenship derived both by birth within the country's territory and from one's parents.

Citizens generally registered the birth of newborns with local authorities. In some instances government officials visited private health institutions to facilitate the process. Failure to register births could result in the denial of public services, such as education or health care, to children living in communities where such services were in any event not widely available. The UN Children's Fund (UNICEF) country office survey data for 2000 estimated—based on the total population of children

under the age of five when the survey was taken—that 90 percent or more of these children were registered at birth, suggesting that the total number of children whose births had not been officially recorded was more than one million.

The antitrafficking law prohibits the commercial sexual exploitation of children. The CNDH estimated that every year, more than 30,000 children were recruited by criminal organizations dedicated to trafficking in persons. UNICEF and the antitrafficking NGO CEIDAS reported that 1.8 million children were involved in commercial sex exploitation and that 1.2 million were victims of child trafficking. CEIDAS, the NGO Casa Alianza, and the National Network of Shelters reported that sex tourism and sexual exploitation of minors were significant problems in the resort and northern border areas. The UN special rapporteur on the sale of children, child prostitution, and child pornography, who visited the country in 2007, stated that the country did not have an effective system to protect and provide assistance to children and young people who were victims of sexual exploitation or trafficking, stating that approximately 85 million children had been exploited in pornography.

Child marriage has historically remained a problem, although there were no statistics available for the year. UNICEF estimated that in 2007—the latest date for which information was available—approximately 28 percent of men and women married before the age of 18.

The country does not have a statutory rape law but does have laws against corruption of a minor, child pornography, and sexual tourism that apply to persons under 18 years of age. For the crimes of selling, distributing, or promoting pornography to a minor, the law stipulates a prison term of six months to five years and a fine of 300 to 500 times the daily minimum wage. For the crime of involving minors in acts of sexual exhibitionism, the law mandates seven to 12 years in prison and a fine of 800 to 2,500 times the daily minimum wage. The production, facilitation, reproduction, distribution, sale, and purchase of child pornography carries a punishment of seven to 12 years' of prison and a fine of 800 to 2,000 times the daily minimum wage. Perpetrators, who promote, publicize, or facilitate sexual tourism involving minors, face seven to 12 years of prison and a fine of 800 to 2,000 times the daily minimum wage. For those involved in sexual tourism who commit a sexual act with a minor, the law requires a 12- to 18-year prison sentence and a fine of 2,000 to 3,000 times the daily minimum wage. The crime of sexual exploitation of a minor carries an eight- to 15-year prison sentence and a fine of 1,000 to 2,500 times the daily minimum wage.

*Trafficking in Persons.*—The country was a point of origin, transit, and destination for persons trafficked for sexual exploitation and labor.

The INM, CNDH, and CEIDAS reported that the vast majority of noncitizen trafficking victims came from Central America; a lesser number originated in the Caribbean, Eastern Europe, and Asia. Victims were trafficked to the United States as well as to Europe, Asia, Canada, and in-country destinations. Women and children (both boys and girls), undocumented migrants from Central America, the poor, and indigenous persons were most at risk for trafficking.

Trafficking victims were often promised employment, but once isolated from family and home, they were forced into prostitution, factory work, or agricultural labor. Young female migrants recounted being robbed, beaten, raped by criminal gang members, and forced to work in table-dance bars or as prostitutes under threat of further harm to them or their families. In many cases drug cartels also diversified their operations to include trafficking in persons. Many illegal immigrants also became victims of traffickers along the border with Guatemala, where the growing presence of gangs such as Mara Salvatrucha and MS 18 made the area especially dangerous for undocumented and unaccompanied women and children migrating north.

Apart from cartels and gangs, many criminal organizations from Mexico, Central America, Brazil, Europe, Japan, China, and several other countries, as well as small family networks, were reportedly involved in trafficking.

Federal law makes trafficking in persons a crime punishable by up to 12 years' imprisonment (or up to 18 years' imprisonment if the offense is committed against a person under the age of 18).

The federal government does not automatically assume jurisdiction in interstate trafficking cases. Twenty-one states criminalize certain aspects of trafficking. The federal law also criminalizes corruption of minors, exploitation of children for commercial sex, and child pornography; anyone convicted of a crime related to a minor under the age of 18 may be sentenced to five to 10 years' imprisonment. If the illicit activity involves a minor under age 16, the sentence increases by one-third; if it involves a minor less than 12 years old, the sentence is increased by one-half. Persons who direct or facilitate such illicit activity for purposes of financial gain may be imprisoned for six to 10 years. If a minor is physically or psychologically abused for

profit or exploitation, the penalties increase by up to one-half. The law also forbids forced or compulsory labor.

On December 2, a federal judge convicted five individuals from Tlaxcala, Mexico, for sexual exploitation—the first convictions under the Trafficking in Persons Law adopted in 2007. Four of the individuals were in custody in Mexico awaiting sentencing, while the fifth was in the United States awaiting sentencing on a conviction there. Separately, the government pursued 48 trafficking cases. FEVIMTRA investigated 43 of the cases involving three or fewer suspects during the year. The Special Prosecutor's Office for Organized Crime, which handles trafficking cases with more than three suspects, was investigating the other five cases. In several states that have adopted penal codes to reflect the federal trafficking legislation, local prosecutors also made efforts to prosecute traffickers, particularly in Mexico City, Chihuahua, and Oaxaca. These offices had limited resources and experience.

*Persons With Disabilities.*—Although the law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, and the provision of other services, the government did not effectively enforce all these stipulations. It was evident that most public buildings and facilities in Mexico City did not comply with the law requiring access for persons with disabilities, although the federal government stated that entrances, exits, and hallways in all of its offices were accessible to persons with disabilities. The education system provided special education for approximately 400,000 of an estimated two million students with disabilities in 2004; only 42 percent of the country's municipalities provided special education.

In the last census from 2000, 1.8 percent of the population reported having a disability, 73 percent of whom lived in urban areas. Of children with disabilities between the ages of six and 14, 73 percent attended school, compared with 91 percent for those in the same age range without disabilities. Only 4 percent of the overall population with disabilities had finished university. Ninety-five percent of all persons with disabilities had access to public or private health care.

The secretary of health collaborated with the secretaries of social development, labor, and public education, as well as with the Integral Development of the Family (DIF) and the Office for the Promotion and Social Integration of the Disabled, to protect the rights of persons with disabilities. The government established offices and programs for the social integration of persons with disabilities, including a program to enhance job opportunities and launch an online portal to disseminate information and assistance. One popular and well-known program, spearheaded by the Humanitarian Foundation for Aid for the Handicapped, employed 40 wheelchair users in the Mexico City airport. The program proved highly successful and was expanding across the country, most recently to Merida, Yucatan.

*Indigenous People.*—The CNDH and the Secretariat of Indigenous Peoples in Chiapas acknowledged that indigenous communities have long been socially and economically marginalized and subjected to discrimination, particularly in the central and southern regions, where indigenous persons sometimes represented more than one-third of the total state population. In the state of Chiapas, the NGOs Fray Bartolome de las Casas (FrayBa) and SiPaz argued that indigenous peoples' ability to participate in decisions affecting their lands, cultural traditions, and allocation of natural resources was negligible.

Indigenous groups reported that the country's legal framework neither respected nor prevented violations of the property rights of indigenous communities. Communities and NGOs representing indigenous groups reported that the government did not consult indigenous communities adequately when making decisions about development project implementation on indigenous land.

Indigenous persons did not live on autonomous reservations, although some indigenous communities exercised considerable local control over economic, political, and social matters. In Oaxaca State, for example, 70 percent of the 570 municipalities were governed according to the indigenous regime of "usages and customs," which did not follow democratic norms such as the secret ballot, universal suffrage, and political affiliation. These communities applied traditional practices to resolve disputes and choose local officials without government interference. While such practices allowed communities to elect officials according to their traditions, usages and customs laws generally excluded women from the political process and often infringed on other women's rights.

The government generally showed respect for the desire of indigenous persons to retain elements of their traditional culture. The law provides protections for indigenous persons, and the government provided support for indigenous communities through social and economic assistance and social welfare programs and provisions of law. Budget constraints, however, prevented these measures from meeting the

needs of most indigenous communities, as severe shortages in basic infrastructure as well as health and education services persisted in such states as Chiapas, Oaxaca, and Guerrero.

The law provides for educational instruction in the national language, Spanish, without prejudice to the protection and promotion of indigenous languages. However, many indigenous children spoke only their native languages.

During the year the CNDH received numerous 989 complaints about human rights abuses of the indigenous population; by year's end it concluded investigations into 982 of these complaints, and seven remained pending. Most complaints pertained to a lack of interpreters and discriminatory practices by government officials.

NGOs such as FrayBa and SiPaz reported that state authorities and nongovernmental actors harassed and abused indigenous human rights defenders. Early in the year, the Tlachinollan Mountain Human Rights Center closed one of its offices in Ayutla de los Libres, Guerrero, because of threats and a climate of insecurity toward indigenous rights activists.

During the year AI documented cases of intimidation and harassment of indigenous members of human rights organizations OPIM and OFPM, including the February killings of Manuel Ponce Rosas and Raul Lucas Lucia (see section 1.a.).

In September the Inter-American Court of Human Rights accepted the cases of OPIM members Valentina Rosendo Cantu and Ines Fernandez Ortega, whom soldiers allegedly detained arbitrarily, raped, and tortured in 2002. The victims, their families, and communities complained that they have been harassed and intimidated by soldiers in the area since the court accepted the cases in 2006. In February 2008 the brother of Ines Fernandez Ortega, Lorenzo, was found dead in Ayutla de los Libres, Guerrero; by year's end there were no known developments in the case.

In the latter part of the year, the Inter-American Court of Human Rights also accepted the case of two environmental human rights defenders, Rodolfo Montiel and Teodoro Cabrera, whom army soldiers reportedly tortured into giving false confessions subsequently used to convict them.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—While homosexual conduct experienced growing social acceptance, the National Center to Prevent and Control HIV/AIDS stated that discrimination persisted. According to the National Center and the Mexican Foundation for Family Planning, societal discrimination based on sexual orientation was common, reflected principally in entertainment media programs and everyday attitudes. Activists organized gay pride marches in cities across the country; the largest, in which 400,000 people participated, was held in June in Mexico City. In December Mexico City legalized gay marriage and adoption, effective in March 2010.

One of the most prominent cases of discrimination and violence against gay men was that of Agustin Humberto Estrada Negrete, a teacher and gay activist from Ecatepec, Mexico State. In 2007 he participated in a gay rights march wearing a dress and high heels. According to the NGO Asilegal, soon after the march, Estrada began receiving threatening telephone calls and verbal and physical attacks. In 2008 he was fired from the school for children with disabilities where he worked. After his dismissal, he and a group of supporters began lobbying the government to reinstate him; when they went to the governor's palace to attend a meeting with state officials in May, police beat him and his supporters. The next day he was taken to prison, threatened, and raped. Although he was released, Estrada continued to face harassment by state authorities.

*Other Societal Violence or Discrimination.*—The CNDH reported that police, immigration, and customs officials violated the rights of undocumented migrants. There were no known developments in the 2007 cases of Jose Alejandro Solalinde, a priest, and 18 Central American migrants who were reportedly beaten and detained for seven hours by police officers in Ixtepc, Oaxaca. Undocumented migrants rarely filed charges in such cases because the authorities generally deported such persons who came to their attention. The INM operated 48 detention centers specifically for undocumented migrants with a total capacity of 3,913. The CNDH had an office in each of these facilities to monitor compliance for respect of detainee human rights.

In September 2008 the CNDH issued recommendations against the Secretariat of the Navy (SEMAR) and SEDENA for discrimination against military members with HIV. SEDENA accepted the recommendations and reported that the officials involved remained on duty, receiving pay and medical attention; SEMAR did not accept the recommendation and took no further action.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—Federal law provides workers the right to form and join trade unions of their choice, and workers exercised this right in practice. According to the National Census Institute, during the year there were approximately

47 million workers in the workforce, with between 20 and 30 million in the formal sector—those paying taxes to the Mexican Institute for Social Security (IMSS). The country's official unemployment rate was an estimated 5.5 percent, but unofficial estimates for unemployment as well as underemployment were much higher.

Approximately 10 percent of the formal sector was unionized. By law 20 workers may formally register an independent union. Administrative procedures for registration, however, were complex and burdensome, and government labor boards frequently rejected independent union registration applications on technicalities. A new union also is required to challenge the government-sanctioned union, if one exists, for control of the collective bargaining contract. Credible reports continued to note the use of officially sanctioned protection contracts, which consisted of an informal agreement whereby the company supported an unrepresentative union in exchange for industrial peace. Workers have not chosen such unions democratically, and exclusion clauses in these protection contracts gave promanagement unions the right to prevent the formation of an authentic union and to demand the dismissal of a worker expelled from the union. Workers were reportedly frequently expelled from official unions for trying to organize their colleagues. HRW also reported that workers who sought to form independent unions risked losing their jobs, as inadequate laws and poor enforcement generally failed to protect them from retaliatory dismissals.

During the year the Secretariat of Labor and Social Security (STPS) denied the results of the elections of the Mexican Electricians Union and the National Trade Union of Miners, Metal Workers, and Similar, effectively freezing their assets and interrupting union business. Both unions complained to the International Labor Organization (ILO) about the administrative procedure ("toma de nota" or taking notice) that the government required to obtain recognition of union election results.

Representation elections were traditionally open; management and officials from the existing union were usually present with the presiding labor board official when workers openly and individually declared their votes. However, in September 2008 the SCJN ruled that secret ballots are required when two or more unions compete for recognition as the legal bargaining representative. At year's end this change had not been implemented, and workers continued to face intimidation in the voting process.

The law provides for the right to strike in both the public and private sector, and workers exercised this right. However, only officially recognized unions may call for a strike. Before a strike may be considered legal, a union must receive approval of a strike notice from the appropriate labor authorities. Procedural requirements have proved lengthy and resulted in a large backlog of strike-notice requests at the state level. Although few formal strikes actually occurred, informal stoppages of work by both union and nonunionized groups were fairly common.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, and the government protected this right in practice. Collective bargaining contracts covered approximately 10 percent of workers.

The use of so-called employer protection contracts continued to expand, according to an expert from the Autonomous University of Mexico, and were common in the mining sectors. Such contracts were collective bargaining agreements negotiated between management and an unrepresentative union, often even prior to hiring a single worker in a new factory. Often these agreements failed to provide worker benefits beyond the minimums mandated by legislation and served to frustrate legitimate collective bargaining with legally recognized independent unions.

In December 2008 the Guerrero State Human Rights Commission traced the abductions of three union organizers to the Attorney General's Office in Acapulco.

There are no special laws or exemptions from labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor by children and adults, such practices commonly persisted in both the rural and industrial sectors. Migrants and children were the most vulnerable.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace, including a prohibition of forced or compulsory labor; however, the government did not effectively enforce such prohibitions. The law prohibits children under the age of 14 from working and allows those between the ages of 14 and 16 to work only limited hours, not at night or under hazardous conditions, with parental permission. According to UNICEF statistics, 16 percent of children between the ages of five and 14 were involved in child labor activities. UNICEF and ILO data indicated that approximately 3.6 million

children ages five to 17—many of them indigenous—worked in agriculture. Approximately 1.5 million child laborers did not attend school.

Child labor was prominent in the area of agriculture. According to the government's 2007 national child labor survey, a total of 3.6 million children worked, approximately one-third in the agricultural sector in the production of melons, onions, sugarcane, tobacco, and tomatoes. Child labor in agriculture was common among migrant and indigenous children.

The STPS, which is charged with protecting worker rights, carried out child-labor inspections and led a number of initiatives to address child labor. The role of the STPS is to conduct workplace inspections to verify that no child under age 14 is working and that children between ages 14 and 16 are not participating in activities prohibited by federal labor law. The STPS was involved in many programs that supported the elimination or the improvement of conditions for working minors. It collaborated with other government secretariats and offices. In addition the Secretariat for Social Development, the PGR, and the Family Development Institute each has responsibility for enforcement of some aspects of child labor laws or intervention in cases where such laws are violated. Government enforcement was reasonably effective at large- and medium-sized companies, especially in the maquila sector and other industries under federal jurisdiction; inadequate at many small companies and in the agriculture and construction sectors; and nearly absent in the informal sector in which most children worked.

During the year the Secretariat for Social Development and DIF carried out programs to prevent child labor abuses and promote child labor rights, including specific efforts to combat the commercial sexual exploitation of children. Nevertheless, it was not uncommon to find girls under the age of 15 working in prostitution.

*e. Acceptable Conditions of Work.*—By law the STPS is charged with setting the minimum wage each December for the coming year. The minimum daily wages, determined by zone, were 54.80 pesos (approximately \$4.21) in Zone A (Baja California, Federal District, state of Mexico, and large cities); 53.26 pesos (approximately \$4.10) in Zone B (Sonora, Nuevo Leon, Tamaulipas, Veracruz, and Jalisco); and 51.95 pesos (approximately \$4.00) in Zone C (all other municipalities). The minimum wage did not provide a decent standard of living for a worker and family. Most of the workers in the formal workforce received more than the minimum wage. Mexico's Metropolitan Autonomous University experts noted that Article 84 of the Federal Employment Law states that an individual's salary should be sufficient to provide for the worker and his family for all their basic needs. The minimum wage would need to be four times what it is now to regain the purchasing power of the early 1970s. In December the STPS announced an increase in the minimum wage of up to 5 percent. At the same time, other secretariats announced an approximate 30 percent increase in the price of the basic basket of goods, and the price of gas and gasoline increased by approximately 25 percent.

The law sets six eight-hour days and 48 hours per week as the legal workweek. Any work over eight hours in a day is considered overtime, for which a worker receives double the hourly wage. After accumulating nine hours of overtime, a worker earns triple the hourly wage; the law prohibits compulsory overtime. There were labor rights disputes filed with labor boards and international labor organizations during the year regarding complaints that workers did not receive overtime pay they were owed. Employers often used the "hours bank"—requiring long hours when the workload is heavy and cutting hours when it is light—to avoid paying for overtime hours.

The law requires employers to observe occupational safety and health regulations, issued jointly by the STPS and the IMSS. Legally mandated joint management and labor committees set standards and are responsible for overseeing workplace standards in plants and offices. Individual employees or unions may complain directly to inspectors or safety and health officials. Workers may remove themselves from hazardous situations without jeopardizing their employment, but in practice this was often not permitted. Plaintiffs may bring complaints before the Federal Labor Board at no cost to themselves. STPS and IMSS officials reported that compliance was reasonably good at most large companies.

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## NICARAGUA

Nicaragua is a constitutional democracy with a population of approximately 5.9 million. In January 2007 Daniel Ortega Saavedra of the Sandinista National Liberation Front (FSLN) was sworn in as president for his second term, following the 2006 election that international observers characterized as generally free and fair. While

civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of these forces acted independently.

The most significant human rights abuses during the year included: unlawful killings by security forces; harsh and overcrowded prison conditions; police abuse; lengthy pretrial detention; lack of respect for the rule of law and widespread corruption and politicization of the judiciary, the Supreme Electoral Council (CSE), and other government organs; erosion of freedom of speech and press, including government intimidation and harassment of journalists; widespread irregularities, fraud, and abuses during the January municipal elections in the North Atlantic Autonomous Region (RAAN) and government interference with the operation of political parties for regional elections; government harassment and intimidation of non-governmental organizations (NGOs); increasing violence against women; discrimination against ethnic minorities and indigenous communities; and violation of trade union rights.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, security forces killed three persons during the year. The Office of the Inspector General, which makes determinations independently of court rulings, generally conducted parallel investigations and administered punishments, including demotion and dismissal of officers.

On February 14, Jinotega police officer Rosendo Gomez Poveda shot and killed Jose Magdaleno Rocha Benavides. Police alleged that the victim resisted arrest and attempted to disarm the officer, but his relatives demurred. Authorities suspended Poveda, and at year's end there was no information available regarding any government investigation or further action.

On October 3, a police officer in Somoto, Madriz, shot and killed 16-year-old Francisco Absalon Carrasco Montano. According to police, Carrasco Montano threatened them with a machete when they broke up a fight among suspected gang members. Family members of Carrasco claimed he was unarmed and called for an investigation.

In April a jury found police officers Denis Cano and Norvin Sevilla guilty of homicide in the September 2008 killing of Luis Angel Vargas Salgado. A judge sentenced Cano, the patrol chief, to 12 years in prison (later reduced to two years and six months) and Sevilla to three years. On May 6, Salgado's mother filed a complaint with the NGO Nicaraguan Center for Human Rights (CENIDH), claiming that Cano and Sevilla had not been incarcerated immediately following their sentences and that her family had received numerous death threats. By year's end Sevilla was released from prison, and Cano's case was under appeal.

On February 17, members of the Artola Delgadillo family, who had been granted special protection under precautionary measures from the Inter-American Court of Human Rights, filed a complaint with CENIDH that armed groups had again threatened them. The family members stated that relatives of Casimiro Candry, who had been sentenced in 2008 to 30 years in prison for the 2007 killings of Villanueva and Gilberto Artola Delgadillo, threatened them after police had disarmed the family members.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, human rights and other NGOs received complaints that police frequently abused suspects during arrest; often used excessive force, including beatings on body areas that do not bruise easily to hide the evidence; or engaged in degrading treatment that caused injuries to criminal suspects during arrests. All three main human rights organizations—the NGOs Permanent Commission on Human Rights (CPDH) and CENIDH, and the government's Human Rights Ombudsman (PDDH)—received complaints against the Nicaraguan National Police (NNP) for excessive force and arbitrary detention.

On April 2, antinarcotics police wearing hoods entered a Managua home without presenting a search warrant and forced six family members, including a 15-year-old girl and her 21-year-old pregnant sister, to be strip-searched for drugs. Police also beat their 17-year-old brother when he resisted arrest, but they found no drugs. On April 4, the family filed a complaint with the CPDH; at year's end the police had not investigated the incident.

On June 9, a group of police shot into a crowd of protesting lobster divers in Puerto Cabezas in the RAAN, injuring Marcela Davis, a Miskito indigenous women's leader, and Bick Gonzalez, a Miskito diver. Police denied involvement in the shoot-



ing, and the officer who allegedly shot Davis was sent on vacation. At year's end there was no information available regarding any government investigation or further action in the case.

On September 25, NNP antiriot officers used tear gas, billy clubs, and rubber bullets to dislodge more than 150 artisanal salt makers and their families, including children, who were protesting and blocking traffic in front of the country's largest salt company, which was owned partially by relatives of FSLN officials. Some protesters were injured, a few were arrested and released the following day, and by year's end there was no investigation.

On October 22, three government supporters, assisted by a driver from the Managua mayor's office, assaulted human rights activist Leonor Martinez after she had participated in the NGO Civil Coordinator's press conference criticizing an October Supreme Court of Justice (CSJ) decision (see also section 3). She reported to police the assault, as well as subsequent threatening phone messages and a threatening encounter. At year's end there was no information available regarding any government investigation or further action in the case.

There were no investigations or charges in the March 2008 case of degrading police treatment of 13 Managua youths that the PDDH reported, nor in the May 2008 or July 2008 police-abuse cases that CENIDH and the CPDH respectively reported.

*Prison and Detention Center Conditions.*—Prison conditions continued to deteriorate due to antiquated infrastructure, increasing inmate populations, and lack of capital investment. The country's eight prisons, designed for fewer than 5,000 inmates, held 5,952 prisoners who suffered from parasites, inadequate medical attention, frequent food shortages, contaminated water, and inadequate sanitation. Family members, churches, and charitable organizations provided some prisoners with food and medical attention to mitigate harsh conditions since, according to NGOs, prisoners were provided only with the bare essentials: food (beans and rice) and water.

Conditions in jails and temporary holding cells were also harsh. Most facilities were old, infested with vermin, physically deteriorated, lacking in potable water, and equipped with inadequate ventilation, electric, or sewage systems. At least two detainees died due to dangerous conditions, and many prisoners suffered mistreatment and discrimination from police officials and other inmates.

On January 2, Eduardo Picado Medina, a prisoner in Chinandega, died of cardiac arrest brought on by a severe asthma attack that began in his prison cell.

On August 22, an NNP chief stationed in Pearl Lagoon in the South Atlantic Autonomous Region (RAAS) subjected a detained Afro-Caribbean teenager to grossly degrading treatment in a holding cell. Community leaders decried the police behavior as an example of racial discrimination by the country's Hispanic majority against a minority member of the population.

On September 6, La Modelo prison inmates in Tipitapa began a six-day hunger strike to protest poor conditions and abusive treatment by prison officials. On September 9, the CPDH received complaints that five spouses and one young daughter of La Modelo inmates alleged inhumane and unsanitary treatment when prison officials conducted body-cavity searches of them using the same surgical glove. At year's end there was no information available regarding any government investigation or further action.

On November 9, Jose Domingo Cornejo, a Chinandega penitentiary inmate, died of encephalitis after repeatedly requesting his sentence be changed to house arrest due to poor prison conditions.

On November 17, antiriot NNP forcibly quelled a riot at Chinandega penitentiary, killing one inmate (Hector Estrada Picado), injuring two severely, and hospitalizing at least 14 for tear-gas-induced respiratory problems. The media reported that the prisoners rioted over poor conditions and mistreatment; a public defender claimed the cause was a judge's unwillingness to allow prisoners to reduce their sentences legally through work.

The investigation of Abel Antonio Ramirez Castellon's September 2008 death while incarcerated in Sebaco did not result in further action, although the CPDH reported that the Sebaco municipal cell conditions improved during the year.

Pretrial detainees often shared cells with convicted prisoners. Juvenile prisoners also shared cells with adults. Suspects were regularly left in police holding cells during their trials because the government did not allocate funds to transport them to court.

Conditions for female inmates were generally better than those for men, but women still suffered from overcrowded and unhygienic cells. During the year authorities pardoned 63 women who were held for minor drug possession, leaving the country's approximately 125 female inmates incarcerated in Managua's La

Esperanza women's prison. Police reported that 90 percent of female inmates were serving drug possession sentences.

The government generally permitted prison visits by local and international human rights observers, with the exception of the La Modelo prison in Tipitapa. In certain instances the government restricted prisoners' access to visitors, attorneys, physicians, and human rights officials. Local human rights groups stated that authorities had denied them access to prisons and prevented them from interviewing detainees. At times government officials did not grant access to foreign government representatives to meet with their imprisoned nationals and did not grant attorneys access to imprisoned clients.

Government programs to improve prison and detention facility conditions continued, including announced plans to repair prison facilities in Chinandega, Puerto Cabezas, and Bluefields, although NGOs and human rights organizations were unable to verify implementation. CENIDH reported improvements to the prison transportation system.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government observed these prohibitions, with some exceptions discussed below.

*Role of the Police and Security Apparatus.*—The president is commander in chief of the NNP, which is administered by the Ministry of Government. The NNP forms a single, unified force responsible for enforcing the law throughout the country. The NNP maintains internal security. The army is responsible for external security but also has some domestic security responsibilities, including combating drug trafficking. There were 9,595 NNP employees, of whom 8,423 were police officers, 857 were civilian personnel, and an estimated 315 were voluntary police who filled staffing gaps. In some areas lacking adequate police protection, citizens engaged in vigilante justice.

The government's inadequate funding of the NNP hampered efforts to improve police performance and resulted in a continuing shortage of officers. Low salaries—typically below 2,000 cordobas (approximately \$100) a month for new officers—created conditions wherein police officers were susceptible to bribes, corruption, and drug trafficking. Many voluntary police officers lacked training and professionalism. The Office of the Inspector General generally investigated and punished officers through internal administrative measures and referred some corruption cases of lower-level officers to the court system. The slow pace of the justice system fostered a public perception of impunity within the police force.

The NNP Office of Internal Affairs is responsible for investigating police security force abuses. During the year the office registered 2,283 complaints and investigated 1,686 cases of alleged police misconduct, including 984 complaints of excessive force, searches without warrants, and unlawful use of firearms. In these cases, 899 officers were punished, including 151 dishonorable discharges. The Office of Internal Affairs also determined that of the complaints filed against police, 71 percent pertained to human rights violations, 15 percent to acts of corruption, and the remaining 14 percent to common offenses or minor infractions.

NNP regulations require that police trainees receive human rights instruction to graduate from the police academy and also annual recertification in human rights awareness. During the year the police academy formally trained 2,473 officers and trainees in human rights principles, with continuing training in human rights given to an additional 5,040 officers. The army included human rights training in its curriculum.

The constitution establishes the NNP as an apolitical, nonpartisan institution protecting all citizens equally under the law. Human rights groups and other NGOs complained that in practice, President Ortega continued to use his position as commander in chief and his embedded surrogates to politicize NNP affairs and threaten the organization's professionalism and institutional integrity. These groups alleged that during the year a general commissioner, the current director of public security and a militant FSLN supporter, ordered police not to interfere with progovernment mob intimidation of peaceful protesters.

On February 28, FSLN mobs violently disrupted an authorized nationwide march against the fraudulent November 2008 municipal elections while police watched passively. Organizers led by the Citizen's Union for Democracy and opposition groups in Managua, Chinandega, Leon, and Jinotega contacted police well in advance of the event and obtained route approval as well as a promise of protection for participants. When the march began, police allowed FSLN mobs to operate with impunity against peaceful marchers, threaten them with rocks and powerful firecrackers, and injure at least one participant severely.

On September 29, three NNP commissioners (one in police uniform) participated in the FSLN women's conference that voted to support the president's reelection. This partisan participation, apparently in violation both of the constitution and of the NNP professional code that bars police from "any political proselytizing," led Police Chief Aminta Granera to criticize the three commissioners publicly for purposely breaking the law, although they were not reprimanded or known to have been disciplined in any way.

On November 18, the National Assembly granted amnesty to Alberto Steffano Boschi, whom a court stacked with pro-FSLN judges had convicted and sentenced in October 2008 to a one-year prison term for allegedly inciting a riot that injured a journalist. Boschi, a dual-national Catholic missionary and former opposition mayoral candidate for Ciudad Sandino, had fled the country in November 2008.

*Arrest Procedures and Treatment While in Detention.*—Individuals are apprehended openly. The law requires police to obtain a warrant from a judicial authority prior to detaining a suspect and to notify family members of the detainee's whereabouts within 24 hours. The law mandates that a prosecutor accompany police making an arrest. Detainees have the right to an attorney immediately following their arrest. Police may hold a suspect legally for 48 hours before arraignment, when they must bring the person before a judge to decide if charges should be brought. The judge then must order the suspect released or transferred to jail for pretrial detention. In practice few prisoners were held beyond the 48-hour deadline. After the initial 48 hours, the suspect has access to bail, visits from family members, and legal representation.

On January 5, Mildred Lopez, the ex-mayoral candidate for La Concepcion in the 2008 municipal elections, organized a peaceful protest to denounce election fraud. Within 24 hours, police violently arrested her and her husband, Gustavo Eslaquit, at home without a court order and detained them for several hours without accusing them of a crime or informing them of the reason for their detention. At year's end there was no information available regarding a police investigation into the incident.

Arbitrary lengthy pretrial detention after arraignment was a problem. Detainees in the RAAN and RAAS often waited an average of six months for their cases to be presented formally before a judge.

*Amnesty.*—During the year the National Assembly granted 63 pardons and one general amnesty to citizens.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, the judicial system remained susceptible to corruption and politicization and did not function independently (see section 4). The law requires new judicial appointments be vetted by the CSJ, a process often based on nepotism, influence, or political affiliation. Once appointed, many judges were subject to political and economic pressures that affected their judicial independence.

The judicial system contains both civil and military courts. The 16-member CSJ, the highest court, administers the judicial system and nominates all appellate and lower-court judges. The 16 CSJ magistrates, equally divided along party lines between the FSLN and the Constitutional Liberal Party (PLC), are appointed by the National Assembly. The CSJ is divided into specialized chambers for administrative, criminal, constitutional, and civil matters. The law requires that the Office of the Attorney General investigate crimes committed by and against juveniles. The Office of the Prosecutor under the Public Ministry has authority to investigate criminal and civil matters.

The law does not permit military tribunals to try civilians, and the military code requires the civilian court system to try members of the military charged with common crimes. Human rights and lawyer groups complained of a delay of justice caused by judicial inaction and impunity, especially regarding family violence and sexual abuse.

On July 14, former minister of culture Father Ernesto Cardenal publicly asked President Ortega to unfreeze his bank accounts to permit his travel to receive an international poetry award. The government had frozen the Catholic priest's bank accounts in 2008 after he refused to pay the fine for his conviction in a reopened slander case that was widely viewed as political retribution for his criticism of the president.

*Trial Procedures.*—Trials are public, and the law provides that defendants can choose a jury trial. Defendants have the right to legal counsel and are presumed innocent until proven guilty. Defendants also have the right of access to all information and evidence registered with the government, as well as the right to know why and how it was obtained, but only during the discovery and trial phases, not during the pretrial period. The law provides public defenders to represent indigent defend-

ants. Defendants can confront and question witnesses who testify against them and also have the right to appeal a conviction. The law extends these rights to all citizens regardless of gender, ethnicity, disability, or other status. The courts continued to use the Napoleonic legal process for some old cases.

The country continued to lack an effective civil law system, with the result that private litigants often filed their cases as criminal complaints to force one party to concede rather than face the prospect of detention in jail. This civil-based criminal caseload continued to divert resources from the overburdened Office of the Prosecutor.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The law provides that persons can file lawsuits seeking damages for human rights violations before civil courts and also provides for litigants to use mediation to resolve civil claims. In practice many members of the judiciary did not render impartial judgments in civil matters and were not independent of political or other influence. Due to bureaucratic inefficiencies, litigants unable to resolve claims through mediation often had to wait months or years for the courts to process their claims, including the enforcement of domestic court orders.

*Property Restitution.*—The government regularly failed to enforce court orders with respect to seizure, restitution, or compensation of private property. Even when courts ordered specific compensation, the government refused to pay settlements, arguing it was illegal for a judge to determine compensation. For example, an appellate court in Jinotepe ordered the government to return confiscated property to the original owner, but on July 23 the Attorney General's Office countersued to annul the decision, an action apparently without legal basis because appellate court rulings may not be appealed by a lower court. However, on December 16, the lower court judge ruled in the countersuit's favor.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—While the law prohibits such actions, several domestic NGOs alleged their e-mail and telephone conversations were monitored by the government.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press. However, the government used administrative, judicial, and financial means to limit the exercise of these rights. Although the law provides that the right to information cannot be subject to censorship, it also establishes retroactive liability, implying the potential for penalties for libel and slander. Individuals could not always criticize the government freely without reprisal, and at times the government attempted to impede criticism.

Independent media were active and expressed a variety of views. The government, however, sought to restrict media freedom through harassment, censorship, the arbitrary application of libel laws, and the use of national security justifications to suppress reporting.

Throughout the year President Ortega and First Lady Rosario Murillo actively criticized independent media outlets. On July 3, days after three-time boxing world champion and Managua Mayor Alexis Arguello was found dead at home, the president blamed the media for causing his death. On March 18, in the role of coordinator for all government communication, the first lady circulated an article to FSLN supporters entitled, "Enemies of Nicaragua—Journalists." On July 19, the president labeled the independent media as "terrorists, agents of the CIA," and "sons of Goebels."

Government officials and private individuals harassed media outlets for criticizing the government. During the year the NNP reported eight cases of threats and acts of violence against journalists. The government continued to exclude independent media outlets from all official media events and to withhold government advertising contracts, instead funneling the equivalent of millions of dollars worth of its advertising funds and important public announcements only to "official" media outlets owned or controlled by the Ortega family.

On June 1, when the Ministry of Health announced the first confirmed H1N1 influenza cases in the country, only "official" media were invited to the press conference. Independent media complained they were denied access to government officials as well as to information that should be publicly available. When government officials cooperated with independent media, they were often reprimanded by superiors for doing so. The government also threatened to eliminate the constitutionally provided tax-free importation of newsprint.

Harassment and intimidation in the form of tax extortion and fines, along with acts of sabotage and equipment theft, continued against radio stations critical of the government during the year. On June 19, the Institute of Telecommunications and Mail (Telcor) canceled the operating license of radio station La Ley in Sebaco, and armed government and Telcor technicians confiscated the station's transmission equipment, valued at approximately 200,000 cordobas (\$9,700)—a seizure in apparent violation of the constitution. The station's owner, Santiago Aburto, was a supporter of opposition presidential candidate Eduardo Montealegre and a critic of the Ortega administration.

In August four opposition radio stations located on the Atlantic Coast—including Radio Amor, Radio La Portenisima, Radio Hit, and Radio Kabu Yula, which broadcast in the Miskito language—ceased operations due to increased operating costs imposed by the government. Their National Electric Company bills rose by 400 percent after the stations broadcast messages critical of the FSLN-controlled regional government.

On October 8, Radio Corporacion, the leading opposition radio station, announced that the Tipitapa Mayor's Office demanded taxes be paid on its radio transmission tower. On October 14, the Managua Mayor's Office imposed fines and threatened to tow Radio Corporacion vehicles away.

On November 19, unknown persons damaged the printing press of La Prensa, the largest daily newspaper in the country, in what owner Jaime Chamorro believed was politically motivated sabotage.

In August 2008 the CSE brought charges against a foreign NGO and several local civil society groups, alleging that these organizations improperly sought to influence municipal elections by hosting former president of Mexico Vicente Fox, who spoke earlier that month in Managua about democracy in Latin America—a speech taken as criticism of the Ortega administration. The prosecutor subpoenaed and seized financial documents of the foreign NGO. The prosecutor also subpoenaed local cosponsors of the Fox visit. On January 29, the Prosecutor's Office ended its investigation and withdrew the case, although it maintained that there were "irregularities" in the accused NGOs' accounts.

Both La Prensa and El Nuevo Diario, the two largest major daily newspapers, continued to have libel cases open against them within the court system, cases filed by private individuals affiliated with the FSLN's Citizen Power Councils (CPCs). There were also no new developments in the appeal process for the 2007 CPC libel case against La Prensa or in the investigation of the 2007 death threats against La Prensa political cartoonist Manuel Guillen.

*Internet Freedom.*—There were no government restrictions on access to the Internet or Internet chat rooms; however, several NGOs alleged that the government monitored their e-mails. Individuals and groups engaged in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available in the majority of the country's cities, and there were more than 12,500 Internet hosts in the country, although the International Telecommunication Union reported only approximately 3 percent of the country's inhabitants used the Internet in 2008. Frequent power outages and infrastructure problems hampered citizen access to Internet and e-mail services.

*Academic Freedom and Cultural Events.*—There were no government restrictions on cultural events. However, the government reportedly sought to restrict academic freedom by pressuring universities to cancel events.

On October 2, the FSLN-controlled Journalists Union prohibited Juan Ramirez Huerta, political editor of El Nuevo Diario, from presenting his 50-year history of a public school.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law recognizes the right to public assembly, demonstration, and mobilization but mandates that demonstrators obtain permission for a rally or march by registering its planned size and location with the police. The government limited public spaces where groups could assemble, countered group demonstrations, and failed to protect opposition demonstrators.

On August 8 in Managua, a mob of more than 100 FSLN and CPC sympathizers violently disrupted a peace march composed of 400 members of civil society and human rights NGOs. The government-friendly mob injured more than 21 persons, including journalist Mario Sanchez, the NGO Civil Coordinator's spokesperson; damaged buses; groped and partially stripped five women; and chased marchers to sanctuary in a cathedral. Police passively watched the confrontation; government workers and high officials, including Tourism Vice Minister Meyling Calero, participated in the attacks. International human rights organizations (including the Inter-

national Federation of Human Rights, Inter American Press Association, and World Organization against Torture) and the Catholic Church condemned the violence.

On October 4, government-friendly FSLN and CPC mobs attacked with impunity an opposition-unity rally held in a private home in Nindirí and used powerful firecrackers and rocks to force the rally's cancellation, injure severely one attendee, and damage vehicles and the home. Police responded slowly to the incident.

On November 21, police led by Chief Commissioner Amnita Granera provided security for peaceful opposition and pro-FSLN marches in Managua, but later violent confrontations outside the city resulted in one death and several injuries.

February marked the conclusion of the six-month-long, FSLN-run, voluntary "Prayer against Hatred" campaign that had illegally occupied Managua's main rotundas before, during, and after the fraudulent 2008 municipal election. Some of the "volunteer" campaigners demonstrated against the government for not paying them for their participation.

*Freedom of Association.*—The law provides for this right, including the right to organize or affiliate with political parties; however, in September the government, through the CSE, inexplicably divided one political party between two regional election alliances (see section 3). The government also used administrative and judicial means to harass other civil society organizations (see section 5).

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

The government requires National Assembly approval of religious group applications for legal standing before they may be registered with the Ministry of Government. This registration is required to obtain tax-exempt status, incur legal obligations, or enter into contracts, and different religious groups perceived unequal treatment in the process.

*Societal Abuses and Discrimination.*—There were reports of societal abuses. Monsignor Juan Abelardo Mata, Catholic Church Episcopal Conference leader and outspoken critic of President Ortega, was the target of death threats and allegedly slanderous accusations about his character during the year.

On April 6, Attorney General Hernán Estrada, supported by the PDDH, accused Catholic Church bishops of inciting an assassination attempt against him; a police investigation and media reports indicated he was the victim of common street crime.

On April 30, Presidential Adviser Orlando Nunez Soto allegedly wrote an e-mail letter purporting to contain information from the Vatican and scurrilously attacking the Catholic Church hierarchy for corruption, moral impropriety, thievery, and deceit. A week later the president's wife denied governmental responsibility for the letter.

There were no reports of religious discrimination or anti-Semitic acts. The Jewish community numbered fewer than 50.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, and emigration, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) through humanitarian organizations, such as the International Organization for Migration (IOM), in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and there was no reported use of it.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The National Commission for Refugees—composed of six voting members (three government ministries and three religious organizations) and five nonvoting members from human rights NGOs—is the only entity that may grant refugee status in the country. Asylum may only be granted for political persecution by the executive branch or by the country's embassies abroad.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The law provides for regularizing the legal status of approximately 6,000 Salvadorans, who have lived in the country since the 1980s civil wars; waiving fines imposed on persons who have been in the country illegally and offering them a year-long status-regularization period beginning in July 2008; and establishing a

detention center in Managua for refugees during case processing. The center, however, was underfunded and understaffed and had capacity for only 30 refugees.

During the year the government granted refugee status to two Colombians and political asylum to Peruvian indigenous leaders Alberto Pizango, Saul Puerta, and Cervando Puerta. Pizango and the Puerta brothers received asylum on June 9 after the Peruvian government accused them of instigating a confrontation in the Peruvian Amazon that killed 24 police and nine indigenous persons. On October 13, the Puertas returned to Peru once a Peruvian court overturned arrest orders against them; Pizango remained in the country since the Peruvian court upheld the order for his arrest.

The IOM and the country's Council of Protestant Churches reported that there were increasing numbers of refugees entering the country, primarily on the Atlantic Coast, hoping to reach the United States or Canada. According to the UNHCR, 227 persons formally requested refugee status (approximately 80 percent from Somalia, 10 percent from Eritrea, 5 percent from Ethiopia, 4 percent from Nepal and Bangladesh, and 2 percent from Cuba and Colombia). During the political crisis in neighboring Honduras, approximately 40 Hondurans requested refugee status. However, only 1 percent of all refugee-status seekers actually stayed in the country.

*Stateless Persons.*—Citizenship is derived by birth within the country's territory and from one's parents. Local civil registries normally register births within 12 months upon the presentation of a medical or baptismal certificate; however, many persons, especially in rural areas, lacked registration or birth certificates. The NGO Child Rights Information Network estimated in September 2008 that approximately 250,000 children and adolescents lacked legal documentation.

Persons without citizenship documents were unable to obtain "cedulas," the national identity cards, and therefore had difficulties participating in the legal economy, conducting bank transactions, or voting. Persons who lacked cedulas also were subject to other restrictions in employment, access to courts, and land ownership. Women and children without citizenship documents were reportedly more vulnerable to sexual exploitation by traffickers. The NGO campaign "The Right to a Name and Identity" worked primarily in the RAAN and RAAS to register birth certificates and distribute cedulas. The government deliberately manipulated issuing cedulas for political purposes for citizens both inside and outside the country.

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

The law provides citizens the right to change their government peacefully; however, the government restricted the exercise of this right in practice.

*Elections and Political Participation.*—The results of the January 18 RAAN municipal elections heavily favored the FSLN and its Yatama indigenous allies, through an electoral process that continued a pattern of fraud that civil society observed in the rest of the country during the November 2008 municipal elections. The government allowed observers from the Moravian Church and an FSLN-affiliated NGO to monitor polling places but did not allow any independent domestic or international observers with significant monitoring experience to participate.

Allegations of RAAN election fraud stemmed primarily from an orchestrated voter-registration process containing substantial irregularities. FSLN-controlled CPCs reportedly staffed the voter-registration drive and manipulated eligible-voter lists to gerrymander election districts in favor of FSLN-bloc candidates, and the FSLN-controlled CSE politicized the distribution of cedulas necessary for voter registration. The media reported that the CSE intentionally delayed issuing cedulas to non-Sandinista voters to prevent their voting but issued them to minor children of FSLN families (under the legal voting age of 16) to increase the FSLN voter pool. On election day there were reports that the FSLN brought in voters from outside the RAAN and also ordered soldiers and police to vote in areas that have historically favored non-Sandinista candidates.

CSE actions led to concerns regarding manipulation of the scheduled March 2010 RAAN and RAAS regional elections. For example, on September 17, the CSE published its list of authorized political parties expected to appear on the ballot, and the list prevented Eduardo Montealegre's Liberal Independent Party from running as a unified party, instead splitting it between two electoral alliances. Evidence also existed of fraud in the September 20 PLC primaries held in the RAAN and the RAAS, where turnout in some areas was three times higher than the total vote for all parties in the 2006 general election. PLC members who did not support former president and PLC leader Arnoldo Aleman reportedly were not allowed to vote in the PLC primaries, while many FSLN party members were.

Responding to a reported appeal by President Ortega and more than 100 mayors, six FSLN justices in the CSJ's Constitutional Chamber ruled on October 19 that the

president's human rights were violated by the constitutional provision that limits presidents to two terms in office and thus prohibits his running for another term. The president had threatened to call a referendum if the National Assembly failed to change the constitution so that he would be eligible to run again. The CSJ's ruling was reached on short notice in the absence of three regular non-FSLN members of the chamber; it was almost universally regarded by constitutional experts, the media, civil society members, and every opposition party as illegal and an "institutional coup d'etat."

There were 17 women in the 92-seat National Assembly, four women in the 16-member CSJ, and five women in the 13 cabinet-level posts. Five persons from indigenous and other ethnic groups in the RAAN and the RAAS were deputies in the National Assembly.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. World Bank indicators reflected that corruption was a serious problem.

In the executive branch, officials dispensed funds outside the normal budgetary process controlled under law by the legislature. Officials who drew these funds, from the equivalent of hundreds of millions of dollars in economic and developmental assistance loaned by the Venezuela-led multigovernmental Bolivarian Alliance for the Peoples of Our America (ALBA), claimed they were administered by a joint venture between the state-owned oil companies of Venezuela and Nicaragua—an arrangement that prevented public oversight or basic accounting to track the money. Government explanations of ALBA-related spending were often contradictory. For example, the government sometimes claimed that ALBA funded the "Zero Hunger" program and at other times claimed the funds came directly from the national budget. The media reported that ALBA-funded contracts were awarded to companies run by individuals with ties to the Ortega family.

Independent media, human rights groups, and opposition political parties reported that the Ortega administration blurred distinctions between party and government by using FSLN-directed CPCs. The government administered subsidized food and other government benefits directly through CPCs, which reportedly coerced citizens into FSLN membership. A September study by a foreign embassy confirmed that the Zero Hunger program, administered through the Ministry of Agriculture and distributed by local CPCs, lacked transparency, displayed official corruption, and demonstrated political preference in its beneficiaries. According to the study, authorities spent most Zero Hunger funds before the 2008 municipal elections to buy votes or reward loyalty. Additionally, persons seeking to obtain or retain public-sector employment were obliged to obtain recommendation letters from CPC block captains. Civic groups complained that government agencies required CPC recommendation letters from persons seeking voter registration and national identity documents.

In the legislative branch, allegations surfaced in February that FSLN National Assembly deputies offered sexual favors and money to opposition lawmakers in exchange for votes. Some PLC members reported that they were offered prostitutes and up to approximately 800,000 cordobas (\$39,000) to support FSLN legislation; at year's end there were no official investigations or ethics charges against allegedly implicated FSLN deputies, and none were expected.

Within the judicial branch, the CSJ was demonstrably susceptible to corruption throughout the year, especially by political parties and drug cartels.

On January 15, six PLC justices in the CSJ issued a ruling that provided a stay of proceedings in former president Arnoldo Aleman's corruption cases. The CSJ decision revoked and left without effect the previous court's ruling and suspended the order that barred Aleman from leaving the country as well as all civil and criminal proceedings related to money laundering and corruption during his presidency. Many observers viewed the decision as the product of an agreement between Aleman and President Ortega, wherein Aleman received his freedom in exchange for FSLN control over the National Assembly.

The law requires that cash seized in antinarcotics operations remain under judicial-system control until a conviction sentence is issued, but it does not clearly specify how seized cash should then be distributed. The media reported that in practice CSJ justices pocketed a portion of the seized cash and gave the rest to police, resulting in the disappearance of more than 20 million cordobas (approximately \$970,000) during the year without accountability.

Cars seized by the NNP in drug cases reportedly were given to members of the judiciary in violation of the law requiring seized assets to be distributed equally among five government agencies. In Rivas Department, for example, damaged or



less valuable cars were left in police lots, while the majority of the more valuable ones were provided to judges and officials.

Public officials were subject to financial disclosure laws, and the Office of the Comptroller is responsible for combating government corruption.

Although the law mandates public access to government information and statistics, it was rarely applied. A Violeta Barrios de Chamorro Foundation study of the law's implementation that was published on May 21 found that 37 of 51 government entities approved a relevant facilitative office, but only 16 existed with an official in charge and only two had fully compliant Web sites. An appeal mechanism existed if authorities denied or ignored an appropriate information request, but its processes were slow and burdensome. The CPDH, unable to obtain information from the CSE about its actions during 2008 municipal elections, filed a case on May 27 with the Court of Administrative Disputes to compel release of the information. At year's end the CSJ had not provided any information on the case status nor responded to CPDH information requests.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups operated in the country. Civil society organizations focused on humanitarian activities generally operated without government restriction. However, government officials harassed and intimidated domestic and international NGOs that criticized the government, CPCs, or the FSLN. During the year the government continued financial audits and other investigations of NGOs. Civil society organizations continued to report governmental confrontations with NGOs, adversarial conditions, and a climate of fear created to suppress organizations critical of the government.

Domestic NGOs and their members who were under investigation reported problems in access to the justice system and delays in filing petitions with courts. Many believed that comptroller and tax authorities audited their accounts as a means of intimidation. NGOs reported encountering severe problems scheduling meetings with authorities and an unwillingness to reveal any information due to a growing culture of secrecy.

In February authorities dropped accusations of money laundering against some organizations such as the Women's Autonomous Movement (MAM) due to lack of evidence, although authorities continued to monitor their accounts and maintained the possibility of reopening cases during the year. MAM reported surveillance of the organization and its offices and the theft of key documents.

In January authorities revived a September 2008 investigation against MAM leader Juanita Jimenez in which she was accused of abuse of power as a notary public. MAM and Amnesty International pressed the government to resolve the case, but there were no developments by year's end, and none were expected. Such accusations and ensuing investigations prevented individuals from working in public offices or performing public services, including working as lawyers or notaries public.

Authorities dismissed the cases against, or never formally charged, the 17 prominent civil society organizations that the government accused in 2008 of laundering money from international donors. While they were under investigation, the government froze their assets, seized computer equipment, performed tax audits, and disbanded them. MAM reported that the government returned its equipment at the end of the investigation, but some was damaged without explanation or compensation.

NGOs complained that the government continued to sideline civil society organizations not affiliated with the FSLN by preventing them from participating in government social programs, such as Zero Hunger and Zero Usury.

There were fewer death threats against members of civil society and human rights NGOs during the year; however, at least five leaders received death threats for political reasons, including Monsignor Juan Abelardo Mata, Victor Boitano, Alvaro Leiva Sanchez, Jaime Arellano, and Bernicia Sanchez Escobareveral. Additionally, some NGOs reported perceiving serious threats, fearing retribution through financial monitoring or judicial action, and often encountering hostility when they questioned or criticized the government or FSLN.

There were no reports of any developments, and none were expected, regarding the 2008 death threats against MAM President Sofia Montenegro, CENIDH Director Vilma Nunez, and other CENIDH members.

The government generally cooperated with international organizations and permitted visits by the UN Development Program and other UN representatives. However, international NGOs, including Save the Children, reported difficulties signing agreements with the government that specify the length of permitted operation in

the country. Authorities allocated tax numbers to Save the Children and several other NGOs that exposed them to tax as businesses rather than nonprofits.

Human rights NGOs and former ombudsman officials asserted that the PDDH office was politicized, influenced by partisan interests, and lacked the independence necessary to comply with its mandate. The PDDH suffered from general budget cuts during the year and publicly claimed inadequate resources to complete its mission. Its December 1 annual report on human rights identified and condemned corruption within the judicial system and the lack of access thereto but praised education and health advances. The government did not respond to PDDH recommendations.

The National Assembly operated a human rights committee that focused primarily on amnesties and pardons. Civil society viewed the committee as controlled by partisan forces and not credible.

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

The law prohibits discrimination on the basis of race, gender, disability, language, or social status. In practice the government often did not enforce these legal protections, and aggrieved persons filed few discrimination suits or formal complaints.

*Women.*—The law criminalizes all forms of rape, regardless of the relationship between the victim and the accused, and the government generally enforced the law. However, many women were reluctant to report abuse or file charges due to the social stigma attached to rape, fear of retribution, and loss of economic security. NGOs reported that both sexual and domestic violence increased. During the year the NNP reported 4,013 cases of sexual crimes, including 1,518 cases of rape, 260 cases of aggravated rape, and 80 cases of attempted rape. The Public Ministry did not make year-end statistics available, but during the first six months of the year, it reported 520 accusations of rape, of which 256 had charges brought before a court. Many rape cases were resolved through mediation, which allowed alleged rapists to circumvent heavier punishment. The media reported that 10 percent of cases involving sexual crimes were taken to court, where 62 percent of the accused were convicted.

The law requires female victims of sexual crimes to undergo a medical examination by CSJ forensic specialists before proceeding legally against alleged perpetrators; the lack of female forensic doctors deterred women from taking legal action. Rape victims were often unaware or uninformed about the procedures required to process their cases officially, and much time transpired before victims received the necessary physical and psychological examinations.

Rape and sexual abuse of adolescent girls continued, including cases involving incest and gang rape. According to the NNP, approximately 78 percent of rape cases during the year involved adolescent girls less than 17 years of age.

On July 25, an employee of the Ministry of Migration allegedly raped a colleague. Police assured the victim that an investigation was underway, yet 45 days after the initial report, authorities had not examined the victim medically or psychologically; the alleged rapist and his accomplice continued to work at the ministry; and police had not examined submitted evidence. By year's end, however, the case proceeded to trial after the CSJ Institute of Forensic Medicine (IML) provided information.

The law criminalizes domestic violence and provides for prison sentences up to six years. The law also provides for the issuance of restraining orders to protect women who fear for their safety. NGOs asserted that victims of violence did not have reasonable access to justice; only 10 percent of cases went to court, while the majority of cases were resolved through mediation. NGOs asserted that this form of case resolution was ineffective and led to patterns of abuse and impunity.

Reporting of domestic violence and violence against women increased dramatically, attributable in part to a higher frequency of occurrence, in part to a greater public willingness to come forward, and in part to the NNP's continued 2008 campaign ("A Home Cannot Be Built Out of Violence . . . Give Love To Your Family") aimed at raising public awareness of domestic violence and helping domestic-abuse victims. NGOs and the NNP asserted that domestic violence remained widespread and underreported, however, with the latter primarily due to cultural attitudes. The NNP reported that during the year there were 27,746 cases of domestic violence and aggression, of which 40 percent were between domestic partners and 2,547 were against children. Although the IML did not make end-of-year statistics available, it reported that in the first six months of the year, it examined 2,886 cases of domestic violence, of which 2,767 were between domestic partners, and 223 cases involving children being considered for criminal proceedings.

The PDDH reported a significant increase in the number of killings of women: there were 53 killings from January through September, 45 of which partners committed. The NNP reported that 31 women were killed during the year due to domestic and sexual violence. NGOs reported 20 percent were sexually abused before

death and 31 percent were killed by firearm. Many victims were often raped, beaten, maimed, or mutilated.

During the year 35 NNP women's commissariats operated in the country, three more than in 2008. Commissariats provided social and legal help to women, mediated spousal conflicts, investigated and helped prosecute criminal complaints, and referred victims to other governmental and nongovernmental assistance agencies. Although the government and the NNP intensified campaigns to encourage women to report spousal abuse and other violence, commissariats lacked sufficient government-provided equipment and funding to discharge their responsibilities adequately. There were no government-operated shelters dedicated to female victims of violence or abuse, although there were nine nongovernment-operated women's shelters.

Prostitution, which is legal for persons 14 years of age and older, was common, although the law prohibits its promotion. In Managua most prostitutes worked on the streets or in nightclubs, bars, or massage parlors. The law imposes a penalty of five to seven years' imprisonment for convicted sex-tourism offenders. Several NGOs reported that sexual exploitation of young girls was common, as was the prevalence of older men (often foreigners) who exploited young girls under the guise of providing them support. Although there was a national campaign launched to raise awareness and reporting of sex tourism, the NNP reported no cases of sex tourism during the year.

The law prohibits sexual harassment, and those convicted face between one- and three-year prison terms, or three- to five-year sentences if the victim is under age 18. From January through September, the Public Ministry reported 105 cases of sexual harassment, of which 22 resulted in charges brought to court; year-end statistics were not available. As with rape and domestic violence, sexual harassment was underreported.

Ministry of Health family-planning norms provide for couples and individuals to have the right to decide the number, spacing, and timing of children, and to have the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care, were more available in urban areas and have improved in remote areas, such as the Atlantic Coast. Women generally received better access to diagnostic services and treatment for sexually transmitted diseases than men because NGO efforts and government campaigns focused on women's reproductive health. Health centers and hospitals provided information on the benefits of family planning and breast-feeding and generally had programs in place to address these issues. A 2006-07 demographic survey showed that 70 percent of women used a modern contraceptive method and that the gap between urban and rural users had decreased.

Women in some areas, such as the RAAN and RAAS, did not have widespread access to medical care or programs. The Ministry of Health reported a total of 5 percent fewer maternal deaths during the year, compared with 2008. However, the decrease was less pronounced in rural areas (11 percent) than in urban areas (24 percent), and maternal death was generally more likely to affect poor rural women than their urban counterparts. Most of the women who died in childbirth were older than 35 years or adolescents who lived in rural areas and had low education levels.

The law provides that women enjoy the same rights as men, including in the family and the workplace and regarding property. However, women generally experienced economic discrimination in access to employment, credit, and pay equity for substantially similar work, as well as in owning and/or managing businesses. The NNP Office of the Superintendent of Women is responsible for enforcing the law to protect women. In practice authorities often discriminated in property matters against poor women who lacked birth certificates or national identity cards. The Office of the PDDH's Special Prosecutor for Women and the Nicaraguan Women's Institute are the principal government entities responsible for protecting the legal rights of women. However, they had limited effectiveness.

*Children.*—Citizenship is derived by birth within the country's territory and from one's parents; however, the Ministry of Family (MiFamilia) failed to register births immediately. Media reports estimated that annually 50,000 children were not properly registered. During the first six months of the year, "Programa Amor" (the child-welfare program launched by the president's wife), in conjunction with Save the Children and the UN Children's Fund, successfully registered 11,250 children located mostly in the RAAN. However, the problem persisted: children and adolescents lacked birth certificates, were not listed in the national civil registry, lacked legal identity, were denied public services, and were highly vulnerable to trafficking.

The NNP reported that approximately 24 percent of the victims of domestic and sexual violence were children. Save the Children reported that both child abuse and violations of children's human rights increased most notably in poor rural areas. The media reported that during the year there were few judicial resources available

to defend the rights of children and that, of all cases brought to court alleging violations of children's human rights, more than half were dismissed and 28 percent of those charged were found guilty. There were no government programs specifically combating child abuse.

An NGO reported that MiFamilia personnel sexually, physically, and emotionally abused children living in government-sponsored child-protection centers during the year. The MiFamilia center in Managua reportedly took in children with a range of issues but did not develop specific programs to address them. It was overcrowded and chaotic; children were bullied and infested with lice.

The PDDH's 2007 allegations of corruption and abusive living conditions did not result in a MiFamilia investigation during the year.

There were no reports of child marriage; however, NGOs stated that while child marriage was rather uncommon, it existed in rural areas. There were no government efforts to combat it.

The law prohibits promoting or engaging in child prostitution, but it remained a problem. Penalties include four to 10 years in prison for a person who entices or forces a child under age 12 to engage in sexual activity, and one to five years in prison for the same acts involving persons between the ages of 12 and 18 years. The law defines statutory rape as sexual relations with children who are 13 years old or younger, and there is no law prohibiting prostitution by juveniles 14 years of age or older.

The law also prohibits promoting, filming, or selling child pornography. The penalty for an individual convicted of inducing, facilitating, promoting, or using a minor younger than 16 years for sexual or erotic purposes, or forcing such a person to watch or participate in such an act, is five to seven years in prison. If the victim is older than 16 years but younger than 18 years, the penalty is reduced to four to six years in prison. During the year the NNP reported 34 cases of child pornography.

According to the IML midyear report, 82 percent of sex crimes were with minors younger than 17 years old. The country was a destination for child sex tourism, primarily in Granada and Managua; however, there were no officially reported cases during the year.

*Trafficking in Persons.*—The law prohibits trafficking in persons for all purposes. There were reports that persons were trafficked to, from, through, and within the country.

NGOs continued to confirm that trafficking was a serious and increasing problem. The IOM also stated in September that international trafficking was present and that there was a disproportionate increase in internal and urban trafficking for sexual and labor exploitation. Porous borders and lack of access to legal identification documents, which led individuals to cross borders clandestinely, exacerbated trafficking problems.

NGOs reported increases in trafficking victims from urban and suburban areas during the year. However, victims overwhelmingly originated from rural areas such as the RAAN and RAAS. Women and children living in rural border areas were at particularly high risk—along with poor, rural, homeless, and undocumented children—of being trafficked for commercial sexual and/or labor exploitation.

The majority of victims were women and children trafficked to Guatemala and El Salvador for commercial sexual exploitation, while Costa Rica was the main destination for trafficking adults and children for forced labor. Victims generally were poor and uneducated; adults generally were coerced under the assumption of finding gainful employment, while children were homeless and frequently had histories involving domestic or sexual abuse.

NGOs and government agencies reported that traffickers included organized crime, employment agencies, other trafficking victims, family members, brothel operators, international truck drivers, and sometimes children carrying packages or guiding border-crossers. Many traffickers used legal migration procedures to traffic victims through official ports of entry, exploiting ineffective government security measures and often taking advantage of the minimal documentation requirements among El Salvador, Guatemala, Honduras, and Nicaragua as well as the low price of falsified immigration papers.

The IOM reported that a common method of luring victims into trafficking involved recruiters (usually women acquainted with the victim who had acquired the trust of the community) who presented rural women with employment opportunities abroad. Recruiters invited young girls and women to travel as a group and provided false paperwork enabling them to cross borders through official ports of entry. Upon arrival at the final destination, victims were enslaved in brothels and sexually exploited.

NGOs reported that family friends or trusted persons often promised urban employment opportunities as domestic workers to young girls from rural and suburban areas. After taking transportation into the city, victims were informed that their workplaces were actually night clubs or bars; on arrival, they were often forced to dance or perform sexual acts.

The Public Ministry is charged with prosecuting trafficking cases. The Ministry of Government has primary responsibility for combating trafficking through the National Coalition against Trafficking in Persons, which coordinated efforts with 16 ministries and autonomous government agencies and with national and international organizations. The judicial police handle trafficking complaints.

Trafficking for sexual exploitation, slavery, or adoption purposes carries a sentence of between seven and 10 years in prison. The maximum penalty is applied against perpetrators in cases where the victim is married, less than 14 years of age, or living as a sex slave with the perpetrator. The penalty range increases to 10-12 years in prison for trafficking of children under 18. There are no penalties for attempted trafficking. Laws against commercial sexual exploitation of minors do not protect all adolescents under 18 years old. The failure of the government to allocate adequate resources, the slow pace of law reform, judicial corruption, lack of border and immigration controls, and inadequate government coordination impeded government antitrafficking efforts.

From January to September, there were five cases of suspected trafficking pursued by the Public Ministry, with 18 persons under investigation; at year's end no one was convicted. NGOs reported that the government did not cooperate with or assist international investigations against trafficking. The law does not permit extradition of citizens.

There continued to be no information available regarding the investigation of two trafficking suspects apprehended in 2007 at the Managua airport while they allegedly tried to put unaccompanied children on a United States-bound flight.

Although the government and NNP did not report officials involved in trafficking, NGOs asserted that both were often aware of, and sometimes colluded with, traffickers. When NGOs gave information to the NNP about specific locales, such as brothels, known to engage in trafficking, officials responded that nothing could be done.

The tasking of "Programa Amor" to help women, children, and adolescents who were trafficking victims did not produce any reported results. NGOs reported there were no other government-sponsored reintegration or aid programs, shelters, or resources for trafficking victims. Rather than the government, NGOs undertook most efforts to reintegrate victims into society. The NGO "Casa Alianza" operated the only two shelters in Managua for trafficking victims.

The government did not allocate sufficient resources to identify victims and failed to provide effective access to judicial remedies for victims. Judges often treated victims as complicit parties in trafficking cases. A lengthy hearing process deterred some victims from submitting cases.

Although the government continued its antitrafficking campaign to increase public awareness and reporting of suspected trafficking cases, inadequate coordination between government entities undermined its effectiveness. For instance, NGOs reported that the 24-hour hotline developed to facilitate reporting of suspicious activity in fact closed after government working hours. Also, police often did not take action or investigate cases although given specific details regarding the whereabouts of known traffickers.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities, but in practice such discrimination was widespread in employment, education, access to health care, and the provision of state services. MiFamilia is responsible for the protection and advancement of rights for persons with disabilities. The government did not effectively enforce the law with regard to the protection of persons with disabilities and did not mandate accessibility to buildings for persons with disabilities.

Government clinics and hospitals provided care for veterans and other persons with disabilities, but the quality of care was generally poor.

At year's end there was no information available on the remaining three cases from 2007 regarding abuse of children with disabilities.

*National/Racial/Ethnic Minorities.*—Various indigenous and other ethnic groups from the RAAN and the RAAS attributed the lack of government resources devoted to the Atlantic Coast to discriminatory attitudes toward the ethnic, racial, and reli-

gious minorities in those regions. In contrast with the rest of the country, the racial makeup of the RAAN and RAAS was predominantly black and Amerindian.

Exclusionary treatment based on race, skin color, and ethnicity was common, especially in higher-income urban areas. Darker-skinned persons of African descent from the RAAN and RAAS, along with foreigners assumed to be from those areas, experienced social discrimination in the interior and Pacific areas and were denied access to private clubs and restaurants in Managua. Persons with darker skin claimed that authorities at the Managua airport targeted them for extra security measures and that police stopped them to conduct illegal searches. There was no information available on government efforts to address discrimination based on skin color, race, or ethnicity.

*Indigenous People.*—Indigenous persons constituted approximately 5 percent of the country's population and lived primarily in the RAAN and RAAS. The five major identifiable indigenous groups were the Miskito, the Sumo, the Garifuna (of Afro-Amerindian origin), the Mayangna, and the Rama. These groups alleged government discrimination through underrepresentation in the legislative branch. For instance, the RAAN and RAAS had generally the same population as Leon and Masaya departments but had only five representatives in the National Assembly, compared with 10 for Leon and Masaya.

Indigenous group members often lacked birth certificates, national identity cards, and land titles. Although they formed political groups, these often held little sway over politics and were ignored or used by major national parties to advance their own agendas. Most indigenous persons in rural areas lacked access to public services, and deteriorating roads made medicine and health care almost unobtainable for many communities. The rates of unemployment, illiteracy, and absenteeism of school-age children were among the highest in the country. By year's end there was no information available regarding any government action to meet the 2008 request, by the UN Committee on the Elimination of Racial Discrimination, for development of a national strategy to combat racism and forge a new relationship with indigenous and ethnic minority communities.

Human rights organizations and indigenous rights groups claimed that the government failed to protect indigenous communities' civil and political rights, including rights to land, natural resources, and local autonomy.

On April 19, the Miskito Council of Elders in the RAAN declared independence from the central government and elected a Wihta Tara (meaning "Great Judge" in the Miskito language) as leader. The elders stated that they declared independence in part because of their lack of representation in the central and regional governments and the alleged corruption of the FSLN-controlled regional government. Election fraud in January's municipal elections (see section 3) increased proindependence sentiment. On October 19, police used tear gas and rubber bullets to suppress a proindependence protest in Bilwi during which one Miskito protester died. By year's end the government had not formally responded to the independence declaration.

In April Rama community leaders filed their December 2008 lawsuits against the government with the Inter-American Court on Human Rights, claiming that the government refused to complete the demarcation process and issue titles for their indigenous lands. On December 19, the government issued titles to most of the Rama territory.

There continued to be no developments, and none were expected, regarding the 2006 lawsuit that the CPDH filed with the CSJ on behalf of the Miskito community, in relation to the Red Christmas operation and other human rights abuses committed in the 1980s by then president Ortega and other high-ranking Sandinista officials.

Although the law requires that the government consult with indigenous persons regarding the exploitation of their areas' resources, some indigenous communities continued to complain that government authorities excluded RAAN and RAAS indigenous persons from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Representatives of autonomous regions and indigenous communities regularly complained to the government, media, and NGOs that the government failed to invest in infrastructure in those regions.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Although sexual orientation is not mentioned specifically, the constitution states that all persons are equal before the law and have the right to equal protection. Lesbian, gay, bisexual, and transgender (LGBT) persons continued to face widespread societal discrimination and human rights abuses, particularly in employment and education. On November 30, the PDDH created the position of a

special prosecutor for sexual diversity to champion LGBT issues. A gay rights NGO reported that, despite the fact that their community benefited from legislation which protects their human rights, violence directed toward the LGBT community increased. However, it was difficult to measure trends because LGBT human rights violations were underreported and often mischaracterized.

Although not authorized by the government, gay pride events occurred several times during the year in Managua. There were no reports of violence directed against these events.

On August 11, the Ministry of Health signed a regulation that seeks to eradicate discrimination on the basis of sexual orientation in the public and private health sectors and to allocate funds from international donors and multinational aid for the establishment of programs to combat such discrimination.

*Other Societal Violence or Discrimination.*—The law provides specific protections for persons with HIV/AIDS against employment and health services discrimination. However, persons with HIV/AIDS continued to suffer societal discrimination based on their alleged HIV/AIDS status. Several NGOs worked to educate communities regarding HIV/AIDS discrimination. Communities often stigmatized persons with HIV/AIDS, and there was a general lack of awareness and education among the public and health care professionals regarding prevention, treatment, and transmission of HIV/AIDS.

There were no known developments, and none were expected, regarding the lawsuit by Maria Josefa Rivera against three health-care professionals who misdiagnosed AIDS and publicized that diagnosis in 2008.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right of all public- and private-sector workers, with the exception of those in the military and police, to form and join independent unions of their choice. Workers exercised this right in practice. Workers are not required to notify their employer or the Ministry of Labor (MITRAB) of their intention to organize a union. The government estimated the national workforce at approximately two million, with 28 percent involved in agriculture, fishing, and forestry activities; 18 percent, in manufacturing; and 53 percent, in services. The unionized workforce represented approximately 4.5 percent of the total workforce between 15 and 60 years old. In general labor unions were allied with political parties. During the year the National Assembly passed a law allowing unions to register outside Managua. MITRAB put this decentralization of union registration in place to remove obstacles that discouraged union registration, and it led to an increased number of unions outside the Managua area.

The constitution recognizes the right to strike, and the law allows unions to conduct their activities without government interference. However, burdensome and lengthy labor code conciliation procedures impeded workers' ability to call strikes. During a strike employers cannot hire replacement workers. If a strike continues for 30 days without resolution, MITRAB has authority to suspend the strike and submit the matter to arbitration. MITRAB often declared strikes illegal, even when workers followed legal strike procedures.

On June 9, NNP officers in Puerto Cabezas shot into a crowd of lobster divers who were protesting price cuts, injuring two persons (see section 1.c.).

On September 29, several members of the National Union of Public Employees (UNE) from Ciudad Sandino went on strike by taking control of the city hall to protest alleged breaches of their collective bargaining agreement with the mayor's office. Tensions began earlier in the year, as the FSLN mayor fired seven union members and replaced them with six close political allies and his son, but the strike did not occur until after the mayor fired two more union members, reportedly for uncovering financial corruption in his office. In response the CPCs of Ciudad Sandino organized a "shock" force that broke up the strike; raided, looted, and destroyed much of city hall; and attacked union members, injuring 10. Police arrived late and did little to stop the violence. After the strike the union and the mayor agreed to attempt to work together peacefully. However, after receiving one fired worker's resignation letter, the mayor replaced him with a close political advisor, a move the union opposed.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to bargain collectively. A collective bargaining agreement cannot exceed two years and is automatically renewed if neither party requests its revision. The government protected these rights and often sought to foster resolution of labor conflicts through informal negotiations rather than formal administrative or judicial processes. Companies in disputes with their employees must negotiate with the employee union, if one exists. By law several unions may coexist at any one enterprise. The law per-

mits management to sign collective bargaining agreements with each union operating at the enterprise.

The penal code establishes sanctions against employers who violate labor rights by conducting activities such as interfering with the formation of unions or strike-breaking. In practice many employers in the formal sector continued to violate worker rights by blacklisting or firing union members. Employers also avoided legal penalties by organizing "white unions" (employer-led unions) for their employees, which lacked independence. Union leaders asserted that employers and union leaders who supported the Ortega administration continued to pressure workers affiliated with non-FSLN unions to resign and register with FSLN unions.

There were reports that more than 11,000 public employees (more than 12 percent of the public workforce) were fired after rebuffing pressure to join the FSLN party, participate in political marches, or join the FSLN's UNE. The leader of UNE and the National Workers Front (FNT), National Assembly Deputy Gustavo Porras, stated to the media that he wanted to make the rival Sandinista Central of Workers (CST) and other non-Sandinista unions "disappear" from state institutions, a sentiment that the FNT backed by directing the apparently illegal dismantling of 47 public-sector unions. The pace of politically motivated firings increased significantly during the year. Unions accused the government of directing ministries to hire CPC members to replace fired workers. These unions claimed that the sole criterion for hiring appeared to be political allegiance to President Ortega, since those hired were often unqualified to execute competently the tasks necessary to their jobs.

In February the Internal Revenue Office (DGI) fired nearly 400 employees for refusing to join Sandinista Leadership Councils, government groups dedicated to strengthening the organizational power of the FSLN. The DGI failed to pay severance as required by law. This was one case in a systematic pattern of illegal, politically motivated firings carried out by several large government entities. Although most of these firings were ruled illegal by courts, none of the entities involved abided by rulings mandating severance payment.

On March 26, anonymous CPC members sent death threats to Alvaro Leiva Sanchez, the leader of the Ministry of Transportation and Infrastructure and Democratic Federation of Public Service Employee unions, because of his public lobbying for improved labor rights on behalf of the employees he represented. He reported the threats to police, but by year's end there was no investigation because police claimed a lack of evidence. The Ministry of Transportation and Infrastructure fired Leiva on September 30 without showing proper cause.

Although employers must reinstate workers fired for union activity, MITRAB may not legally order employers to rehire fired workers; that requires a judicial order. The law allows employers to obtain permission from MITRAB to dismiss any employee, including union organizers, provided the employer agrees to pay double the usual severance pay. In practice employers often did not reinstate workers or pay the severance due to weak enforcement of the law.

Although the law establishes a labor court arbitration process, long waiting times and lengthy, complicated procedures detrimentally affected court-mediated solutions, so most labor disputes were reconciled outside of court. The International Labor Organization (ILO) worked with the government and labor leaders to reform this process and make it more accessible to employees in disputes.

Labor leaders complained that employers routinely violated collective bargaining agreements and labor laws. Although year-end statistics were not made available, during the first six months of the year, MITRAB conducted 3,959 inspections and issued 26 fines, including some to companies that operate in the export processing zones also known as free trade zones (FTZs).

There are no special laws or exemptions from regular labor laws in the country's 41 FTZs. Fewer than 10 percent of the estimated 55,000 FTZ workers were union members. Because a high proportion of FTZ unions had fewer than 50 members, many lacked effective collective bargaining power.

On July 21, the FNT-affiliated Confederation of Sandinista Workers-Jose Benito Escobar formed in the Tecnotex textile factory located in an FTZ. Two days later the employer fired 29 of the 33 founding union members in retaliation and circulated a document forbidding the union to exist; those employees who did not sign it were fired. MITRAB promptly ruled that Tecnotex must reinstate the employees; however, when they showed up for work on August 21, company security personnel assaulted them and blocked their entrance to the factory. The fired workers claimed to be unable to find another job in the FTZ because of blacklisting.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. The law prohibits submission, maintenance, or forced recruitment for slavery, forced labor, servitude, or participation in an armed conflict and sets a penalty of between five



and eight years' imprisonment. The government did not effectively enforce the law or implement programs to combat forced labor. There were instances of forced domestic servitude, primarily of female minors, and forced prostitution of minors, who were trafficked to urban centers from other countries or from rural areas within the country (see sections 6 and 7.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the law provides for the protection of children's rights and prohibits any type of economic or social exploitation of children, child labor was a widespread problem. The government did not effectively enforce the law to protect children from workplace exploitation. The most recent available national survey of adolescent and child labor (2005) estimated that there were approximately 239,000 working children between five and 17 years old, of whom 36 percent were less than 14 years old.

The law establishes the minimum age for employment at 14 years and limits the workday to six hours and the workweek to 30 hours. Children between 14 and 16 years of age must have parental approval to work. The law prohibits teenage domestic workers from sleeping in the house of their employers; MITRAB is responsible for caring for those teenage domestic workers unable to return each evening to their families, but this was not effectively enforced. It is also illegal for minors to work in places MITRAB considered harmful to their health or safety, such as mines, garbage dumps, and night-entertainment venues.

All employees more than 14 years old must be enrolled in the national social security system. The law also provides for eight-year prison terms and substantial fines for persons employing children in dangerous work and permits inspectors to close those facilities. The government did not provide adequate resources for MITRAB to enforce the law effectively, except in the small formal sector. Although the annual budget for MITRAB was cut during the year, the budget percentage allocated to enforcement increased by 10 percent—from approximately 18 million cordobas (\$880,000) to 21 million cordobas (one million dollars).

Most child labor occurred in the large informal sector, including on coffee plantations and subsistence farms, and in forestry, fishing, and hunting. Children also worked in the production of sugarcane, tobacco, and crushed stone as well as in street sales, garbage dump scavenging, and transport. According to the ILO's International Program on the Elimination of Child Labor, children engaged in the worst forms of child labor in plantation agriculture, shellfish harvesting, pumice and limestone quarrying, gold mining, industrial manufacturing, construction, commercial/retail, hospitality, and as domestic servants.

Children working in agriculture suffered from sun exposure, extreme temperatures, and dangerous pesticides and other chemicals. Hundreds of children working with their families also faced water pollution and powerful ocean tides in harvesting black clams.

The government continued activities to incorporate working adolescents into the formal workforce by transferring children above the legal working age from the worst forms of child labor into nondangerous jobs. NGOs offered vocational training to help adolescents develop job skills for FTZ factory employment. During the first six months of the year, MITRAB reported that it removed 51 child workers from employment and incorporated 783 adolescents into the formal sector; full-year statistics were not available.

MITRAB supported a 10-year plan (2007-16) to end child labor that requires all government programs to include child-labor prevention and eradication initiatives. The government continued its "Programa Amor," which had a primary goal of eradicating child labor by reintegrating abandoned children into society; while there were indications that it was operative early in the year, effectiveness information was inaccessible. La Prensa newspaper articles in December reported there was no concrete evidence that "Programa Amor" objectives were being reached. On October 16, more than 340 educators in the RAAN who work for "Programa Amor" and MiFamilia complained that they had not been paid and had not received promised resources and materials for more than six months.

*e. Acceptable Conditions of Work.*—The national minimum wage law establishes statutory minimum wages for nine different economic sectors; the wages are set through tripartite negotiations involving business, government, and labor. The National Assembly must approve any wage increases. During the year the government increased the minimum wage by an average of 11 percent across all sectors. The monthly minimum wage ranged from 1,573 cordobas (approximately \$77) in the agricultural sector to 3,588 cordobas (\$175) in the financial sector. This minimum wage remained significantly below MITRAB's estimated basic cost of goods for an urban family of four, which is 8,670 cordobas (\$420), and did not provide a decent standard of living for a worker and family. Also, the minimum wage was generally

enforced only in the formal sector and was thus applicable only to approximately one-third of the working population.

The standard legal workweek is a maximum of 48 hours, with one day of rest; however, this provision was often ignored by employers who claimed that workers readily volunteered for extra hours for additional pay. While the law mandates premium pay for overtime and prohibits excessive compulsory overtime, these requirements were not always effectively enforced.

The law establishes occupational health and safety standards, but the government did not allocate adequate staff or resources to enable the Office of Hygiene and Occupational Safety to enforce these provisions. The law mandates the creation of regional offices for the National Council of Labor Hygiene and Safety. The council is responsible for worker safety legislation and for collaboration with other government agencies and civil society organizations in developing assistance programs and promoting training and prevention activities. The government did not enforce the new law effectively. During the first half of the year, MITRAB conducted 1,096 health and safety inspections; no end-of-year statistics were made available. Also, 1,154 workplace accidents were reported in this period, a drop from 5,497 reported in the first half of 2008.

The law provides workers with the right to remove themselves from dangerous workplace situations without jeopardizing continued employment, but many workers were unaware of this right due to the lack of government dissemination of information.

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## PANAMA

Panama is a multiparty constitutional democracy with a population of approximately 3.45 million. On May 3, voters chose Ricardo A. Martinelli Berrocal as president in national elections considered generally free and fair by international and domestic observers. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, although problems persisted, including harsh prison conditions and abuse by prison guards; prolonged pretrial detention; corruption, ineffectiveness, and political manipulation of the judicial system; political pressure on the media; discrimination and violence against women; trafficking in persons; discrimination against indigenous communities; and child labor.

### RESPECT FOR HUMAN RIGHTS

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

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

In the ongoing investigation of 47 cases of murder or disappearance during the 1968-89 military regime, 19 cases were tentatively dismissed, one was declined for trial, another was permanently dismissed, and seven cases were closed due to prescription; 19 cases were at various stages of the trial process, including four cases currently being tried.

There were no known developments in investigations the attorney general opened in 2008 regarding the alleged killings in 1982-83 of more than 20 persons reportedly thrown from helicopters.

In November the Attorney General's Office requested that a superior court call former minister of government and justice Daniel Delgado to trial for a killing in 1971. Delgado was instructed not to leave the country and must appear before the Prosecutor's Office once a month until the court reaches a decision on calling a trial.

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

In December the Public Ministry requested permission from family members to conduct DNA tests in Panama on the remains of four persons, including disappeared priest Hector Gallego. The remains had been sent abroad in 2008 for DNA testing but contractual and procedural issues have delayed this process.

In 2008 the Inter-American Commission on Human Rights (IACHR) ordered the government to pay restitution to the family of Heliodoro Portugal, who disappeared in 1970 during the military dictatorship. In February, during a public event to honor those who disappeared during the military regime, the government undertook to comply with the IACHR ruling; however, at year's end no payment had been made.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits treatment or punishment that harms the physical, mental, or moral integrity of persons.

Prison guards sometimes physically abused inmates. Through August the Panamanian National Police (PNP) Directorate of Professional Responsibility (DRP) opened two investigations into cases of prison guard abuse against inmates, compared with 35 such investigations in all of 2008. During the year the ombudsman intervened in 153 cases in the prison system, negotiating and petitioning on behalf of prisoners and receiving complaints about prison conditions.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and, in some cases, life threatening. Problems included overcrowding, use of police stations as detention facilities, and failure to separate inmates according to the type or severity of their alleged crimes. As of September the prison system, which had an official capacity of 7,145 persons, held 10,676 prisoners. In October the government released 803 inmates who had served two-thirds of their sentences.

Abuse by prison guards and custodians remained a problem. Prison authorities generally arranged for prosecution of criminal offenses by officials.

Prison medical care was inadequate. HIV/AIDS, tuberculosis, hepatitis B, and other communicable diseases were common among the prison population. Only 14 physicians served the entire prison system, and they worked limited morning hours. A 60-bed clinic opened at La Joyita prison in 2008 remained unused due to lack of custodians to watch ill detainees; authorities transferred patients to public clinics instead.

There were no known developments in the case of two persons charged with the 2007 killing of an inmate in the Basilio Lakas detention facility.

PNP officers provided both internal and perimeter security at all prisons but often lacked training for prison duty. In PNP-run prisons, inmates complained of limited time outside of cells and limited access to family visits. Civilian custodians joined the PNP in overseeing inmates within Nueva Esperanza, Tinajitas, El Renacer, and the central women's prisons in Panama and Chiriqui provinces.

Small jails attached to local police stations sometimes held prisoners for the entire length of their sentences, but police officers who guarded them lacked the necessary custodial training to prevent abuses, and typically the detention facilities were not suitable for long-term detention.

Female and male prisoners were held separately. Although prison conditions for women and juveniles were generally better than those for men, they remained characterized by overcrowding, poor medical care, and lack of basic supplies for personal hygiene. There were no reports of sexual or other violence in women's prisons. Unlike in prisons for men, there were no conjugal visit programs in prisons for women, which were administered mainly by female directors and custodians.

With the exception of one modern facility near Panama City, juvenile pretrial and custodial detention centers throughout the country did not have resources to provide education or adequate supervision.

Pretrial detainees often shared cells with convicted prisoners, and first offenders were held with recidivists due to space constraints.

The Office of the Ombudsman conducted weekly prison visits, and the government generally did not monitor ombudsman meetings with prisoners. The office accepted complaints from prisoners or their families and in July issued a comprehensive report on the status of prisons. Also in July the government approved an additional \$5.5 million to improve prison conditions (the U.S. dollar is the official paper currency but is officially referred to as the Balboa).

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The law permits exceptions when an officer apprehends a person during the commission of a crime or when an individual interferes with an officer's actions.

*Role of the Police and Security Apparatus.*—The country has no regular military forces. The Ministry of Government and Justice oversees all police, investigative, border, and maritime forces in the country. The PNP is responsible by law for internal law enforcement and public order. The National Frontier Service and the National Aero-Naval Service were created in 2008 to provide border and maritime security. The Directorate of Judicial Investigation (DIJ) provides investigative services to the judicial system.

In August the National Assembly abolished the year-old National Intelligence and Security Service.

Although its primary mission is law enforcement, the PNP also is responsible for prison security. There were approximately 17,000 law enforcement officers. The law includes specific guidelines for the use of force, including deadly force; requires that

police officers respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior.

Corruption among police officers remained a problem, and cases against higher level officials generally were not pursued as vigorously as those against lower-level officers. The Public Ministry opened three cases against PNP officers for embezzlement and one for corruption.

Police officers frequently were involved in cases of narcotics smuggling and other crimes. The government regularly investigated and prosecuted officials involved in criminal activity. In July the new administration approved salary increases for PNP (but not DIJ) agents. The government fired 25 DIJ agents for subsequently protesting, declaring that the protests constituted disrespect for the constitution.

The PNP's independent Office of Professional Responsibility has administrative authority to open internal investigations and a defined legal process. The staff received training in polygraph usage and conducting internal investigations.

The PNP's deputy director and secretary general addressed human rights problems that arose in the police force. A Directorate of Human Rights created in 2008 is responsible for sanctioning officers for human rights violations. Through May the human rights ombudsman received two complaints against police officials for abuse of authority. PNP officers regularly underwent human rights training.

As of September the DRP had opened 335 disciplinary proceedings against police, including 125 for inappropriate conduct, 111 for physical aggression, and 97 for abuse of authority. For the entire year, 133 incidents of domestic violence by police officers were reported. Through September no PNP officers had been dismissed.

*Arrest Procedures and Treatment While in Detention.*—Police generally apprehended persons openly and did not practice arbitrary or secret arrest and detention. The law provides that suspects be brought promptly before a judge; however, lack of prompt arraignment continued to be a problem. The law requires arresting officers to inform detainees immediately of the reasons for arrest or detention and of the right to immediate legal counsel. The law provides for bail, and a functioning bail system exists. Detainees were allowed prompt access to legal counsel and family members, and the government provided indigent defendants with a lawyer. The law prohibits police from detaining suspects for more than 48 hours without judicial authorization but permits detention of minors for 72 hours. The preliminary investigation phase of detention may last from eight days to two months and the follow-up investigation phase another two to four months, depending on the number of suspects.

In practice extended pretrial detention continued to be a serious problem because of the laws, judicial inefficiency, and the use of a written inquisitorial system. According to government statistics, as of July 58 percent of prisoners were pretrial detainees. Pretrial detention at times exceeded the maximum sentence for the alleged crime.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the judicial system was susceptible to corruption and outside influence, including manipulation by other branches of government. The president appoints nine Supreme Court of Justice magistrates to staggered 10-year terms subject to National Assembly ratification. The Supreme Court of Justice magistrates, in turn, appoint appellate Superior Tribunal judges, who appoint circuit and municipal court judges in their respective jurisdictions. Although the law provides for these judicial appointments to be made under a merit-based system, civil society groups maintained that political influence and undue interference by higher-level judges undermined the system.

At the local level, mayors appoint "corregidores" (administrative judges), who exercise jurisdiction over minor civil cases and over the arrest and imposition of fines or jail sentences of up to one year. Outside of Panama City, this system had serious shortcomings. Defendants lacked adequate procedural safeguards. Corregidores usually had no legal training or other pertinent expertise. In practice appeal procedures were generally nonexistent. Affluent defendants often paid fines while poorer defendants went to jail.

*Trial Procedures.*—The law provides that all citizens charged with crimes enjoy a presumption of innocence and have the right to counsel, 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 proceeding's investigative phase.

In 2008 the National Assembly approved a new Code of Criminal Procedures (new code), through which the country will transition from an inquisitorial to an accusatory system of justice. The new code incorporates anticorruption elements, such as regulations to penalize conflicts of interest, protect witnesses and whistleblowers,

and allow the use of plea bargaining. In August, a month before the new code was to have entered into force, the government postponed its implementation for two years.

Trials are open to the public. The law provides for trial by jury at the defendant's election but only in cases where at least one of the charges is murder. Judges may order the presence of pretrial detainees for rendering or amplification of statements or for confronting witnesses. Trials are conducted on the basis of evidence presented by the public prosecutor. Defendants have the right to be present at trial and to consult with an attorney in a timely manner. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have a right of appeal. The law extends these rights to all citizens.

The law obliges the government to provide public defenders for the indigent. Many public defenders, however, were appointed late in an investigation, after the prosecutor already had evaluated the bulk of the evidence and decided to recommend trial. Public defenders' caseloads remained extremely high, averaging 395 cases per attorney per year.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The constitution and the judicial code establish an independent judiciary in civil matters. Political manipulation of the judicial system remained a problem, and bureaucratic delays hindered access to judicial and administrative remedies for human rights violations. There were problems in enforcing domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the government generally respected these prohibitions; however, there were complaints that in some cases law enforcement authorities failed to follow legal requirements and conducted unauthorized searches.

A law enacted in September eases requirements for authorities to conduct wiretap surveillance; however, the law denies prosecutors the authority to order wiretaps on their own and requires judicial oversight of any wiretap surveillance.

In an effort to prevent unauthorized searches, the Public Ministry maintained representatives in each PNP division to approve searches. These representatives approved numerous searches during the year.

*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 in practice individuals generally enjoyed freedom of expression, although there were some official attempts to impede it.

The independent media were active and expressed a variety of views without restriction. The government owned one educational television station and one radio station. The law prohibits newspapers from holding radio and television concessions and vice versa. International media operated freely in the country.

Journalists alleged that the government purchased advertising space to reward news organizations for publishing favorable stories and withdrew advertising funding from news organizations engaged in unfavorable coverage. Legal actions brought by officials of the former administration remained pending against many journalists. The IACHR, the Inter American Press Association, Reporters Without Borders, and other groups criticized these measures as efforts to censor the press.

The law allows prosecution of journalists for vague charges related to exposing private information and documents, even those deemed of public interest. The law also permits prosecution of journalists for publishing information restricted on national security grounds. Nongovernmental organizations (NGOs) asserted that these provisions threatened freedom of speech and press.

In April a judge sentenced the director of the tabloid *El Siglo*, Jean Marcel Chery, and two other journalists to two years in prison for trespassing while reporting on corruption allegedly involving a Supreme Court justice who exercised influence over the lower court that heard the case. The local journalism community and the Inter American Press Association denounced the decision as a clear case of judicial harassment. Chery appealed the decision in November.

In September a court convicted Rafael Berrocal of *La Prensa*, the country's leading newspaper, of calumny and libel against a former Panamanian vice president, now deceased. The court sentenced Berrocal to 200 days in prison or a fine of \$400; Berrocal's appeal of the decision remained pending at year's end.

In July 2008 the Supreme Court overturned former president Moscoso's pardons of several journalists who had been convicted of libel under laws no longer in force.

The impact of the ruling remained uncertain because the court returned the cases to their "original state," which was not clarified by year's end.

In September 2008 a judge ordered the seizure of the assets of the local newspaper El Periodico for publishing the tax returns of a prominent businessman. After the judgment the newspaper went out of business. The case remained under appeal.

*Internet Freedom.*—There were no government restrictions on access to the Internet and no reports that the government monitored e-mail or Internet chat rooms, except for legitimate law enforcement monitoring of suspects' computers in sex crime cases. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that 23 percent of the nation's populace used the Internet in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

One construction company employee and one PNP officer remained in custody awaiting trial for killing two union members during demonstrations in 2007.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, provided that "Christian morality and public order" are respected, and the government generally respected this right in practice.

The constitution limits public offices that religious leaders may hold to those related to social assistance, education, and scientific research.

*Societal Abuses and Discrimination.*—There were no reports of anti-Semitic acts or of societal abuses or discrimination against any religious groups. There was a Jewish population of approximately 10,000 persons.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, persons under temporary humanitarian protection (THP), asylum seekers, stateless persons, and other persons of concern.

The government generally permitted freedom of movement for documented refugees and asylum seekers; however, it restricted the freedom of movement of Colombian nationals living in the border region with Colombia under the THP regime, who could only leave these locations with special permits issued by the National Office for the Protection of Refugees (ONPAR).

The law prohibits forced exile, and there were no reports of its use.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. A 1998 decree grants protection to all persons entering the country due to "state persecution based on race, gender, religion, nationality, social group, or political opinion." The decree grants two months' THP status to "displaced persons" in the case of a large influx; in practice the government did not enforce the two-month time limit.

In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. At times border officials and authorities in large urban centers did not have a clear understanding of their responsibilities when dealing with persons seeking asylum or refugee status, which resulted in arbitrary detention and risk of return to countries where their lives or freedom may be threatened.

Asylum seekers and refugees were not provided with documentation in a timely fashion, and the documents provided were not always recognized as valid by public officials, including police, health service providers, schools, and banking institutions. Work permits were issued after a lengthy bureaucratic process.

There were approximately 1,000 recognized refugees in the country. During the year between 240 and 300 persons approached the government seeking refugee status, according to ONPAR.

The law requires that the government's National Commission for the Protection of Refugees, which is convened by ONPAR, meet at least once every three months

to determine the status of persons seeking refugee status. In October the commission met for the first time in a year; it reviewed 230 cases and granted refugee status to 41 persons. In December the commission met again and granted refugee status to another 19 persons.

Law 25, enacted in 2008, establishes a legal process to allow persons who have been recognized as refugees for more than 10 years to apply for permanent residence. By October the government had approved 41 cases under this law; another 140 cases were pending.

Persons under THP included approximately 500 displaced persons, mainly of Afro-Colombian heritage, and approximately 300 of their dependents, some of whom were citizens born in Panama of marriages between displaced Colombians and Panamanian citizens. The government did not permit displaced Colombians to move or work outside of their assigned villages.

UNHCR classified 15,000 persons living in the country as “persons of concern” in need of international protection. These included persons for whom the government had denied refugee status and persons in the country who did not apply for refugee status due to lack of knowledge or fear of deportation. UNHCR had a permanent office in the country and was generally granted access to refugees and project sites where it could provide services to refugees, internally displaced persons, and persons under THP.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. The law provides for direct popular election every five years of the president, the vice president, legislators, and local representatives. Naturalized citizens may not hold certain categories of elective office.

*Elections and Political Participation.*—On May 3, voters chose Ricardo A. Martinelli Berrocal, the opposition Alliance for Change candidate, as president in national elections considered generally free and fair by international and domestic observers. More than two million citizens voted in elections for president, vice president, 71 legislators, 75 mayors, and 623 local representatives. For the first time, citizens residing overseas who had registered via the Internet were allowed to vote by mail-in ballot; prisoners and hospital patients were also able to vote.

The law requires new political parties to meet strict membership and organizational standards to gain official recognition and participate in national campaigns. The law also requires political parties to be structured democratically, permits independents to campaign for the National Assembly, provides for the autonomy of the Electoral Tribunal, and limits the immunity of representatives in the National Assembly by permitting the Supreme Court of Justice to prosecute criminal cases against representatives. In April the Supreme Court ruled against the electoral prohibition on independent candidates running for president.

Women held six of 71 seats in the legislature. There were six women in the 17-member cabinet and one female judge on the Supreme Court of Justice. The attorney general was a woman.

Five seats in the legislature were designated to represent the country’s recognized indigenous regions. In general deputies in the legislature, cabinet members, or members of the Supreme Court of Justice did not identify themselves as members of ethnic or racial minorities.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption and anticorruption mechanisms such as asset forfeiture, whistleblower and witness protection, plea bargaining, and conflict of interest rules.

Corruption remained a problem in the executive, judicial, and legislative branches of government as well as in the police (see section 2.d.). While there were a number of arrests in cases of official corruption, there were also accusations that these arrests were politically motivated. There was little, if any, improvement in systems designed to increase regulatory quality.

In August authorities arrested former minister of education Belgis Castro for embezzlement in a case concerning contracts for removal of fiberglass from public schools. In September authorities fired the deputy director of the Transit and Land Transportation Authority, Roberto Moreno, for allegedly selling more than 200 taxi permits.

There were no new developments in the case of six employees of the Ministry of Education charged in 2008 with embezzling \$1.5 million.

In 2008 the government instituted an Internet-based procurement system that requires publication of all proposed government purchases, evaluation of proposals and monitoring of the procurement process, and advance public notice of intended procurement. An administrative court handles all public contracting disputes. With the change of administration, there were reports of government purchases made via direct contracts, circumventing this system.

Commercial or industrial licenses may be obtained through the country's online business registration service, reducing opportunities for corruption compared with the former process, which involved numerous interactions with local officials.

Public officials were subject to financial disclosure laws, but this information, reported to the government, was not available to the public.

The transparency law provides public access to information from and about public entities with the exception of cabinet meeting minutes. In practice the government was not always forthcoming in response to information requests, obliging journalists to resort to legal remedies. When denying requests, authorities generally provided the rationale for the denials. Requesters can appeal access decisions to the Supreme Court of Justice.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

The Office of the Human Rights Ombudsman, elected by the National Assembly, has moral but no legal authority. Between January and May, the Office of the Ombudsman received 90 complaints, 14 of which were against the Ministry of Health. The ombudsman enjoyed the government's cooperation and operated without government or party interference. The office had adequate resources, was considered to be effective, enjoyed public confidence, and issued reports with recommendations on environmental contamination and prison conditions on which the government took action.

The government generally cooperated with international governmental organizations. The UN maintained a significant regional and country-specific presence in the country.

*Section 6. Discrimination, Societal Abuse, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, gender, disability, language, or social status, but there were allegations that these prohibitions were not always effectively enforced.

*Women.*—The law criminalizes rape, including spousal rape, with prison terms of five to 10 years and eight to 10 years with aggravating circumstances. A 2008 law removed the provision that a perpetrator can marry a victim who is at least age 14 in order to avoid potential charges. Rapes constituted the majority of sexual crimes investigated by the PNP.

Domestic violence against women continued to be a serious problem. Although the law criminalizes domestic abuse and family violence with prison terms of two to four years, there were few convictions for domestic violence, with the exception of killings in the course of domestic abuse.

The DIJ reported 2,855 cases of domestic violence and 715 cases of rape; 80 women died as a result of domestic violence. A 2008 law makes domestic violence an "aggravating circumstance" in homicide cases.

In June the government upgraded the former National Directorate of Women at the Ministry of Social Development to an autonomous agency, the National Institute for Women, with a mandate to reduce domestic violence.

The government operated a shelter in Panama City for victims of domestic abuse or trafficking that offered social, psychological, medical, and legal services.

Prostitution is legal and regulated, with prostitutes required to register and carry identification cards; however, the majority of prostitutes were not registered. Trafficking in women was a problem.

The law prohibits sexual harassment in cases of established employer/employee relations in the private sector and in teacher/student relations; violators can receive one- to three-year prison sentences. The extent of the problem was difficult to determine because convictions for sexual harassment were rare, and preemployment sexual harassment was not actionable. The effectiveness of law enforcement could not be determined due to the small number of cases brought before the courts.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination.



Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The law prohibits discrimination on the basis of gender, and women officially enjoyed the same rights as men under family, property, and criminal law. The law recognizes joint or common property in marriages, but the government did not allocate sufficient resources to enforce the law effectively.

The law mandates equal pay for men and women in equivalent jobs, but in practice women on average received wages that were 14 percent lower than those received by men for comparable jobs. The Ministry of Social Development (MIDES), through the National Institute of Women, promoted equality of women in the workplace and equal pay for equal work, attempted to reduce sexual harassment, and advocated legal reforms.

*Children.*—Although the law provides that citizenship is derived by birth within the country's territory, children in remote areas may have difficulty in obtaining birth registration certificates. Lack of reporting on sexual exploitation of minors remained a problem, often because of parental involvement or complicity. Sexual abuse of children was reported in both urban and rural areas, as well as within indigenous communities.

MIDES received complaints regarding physical abuse of children. The ministry maintained a free hotline for children and adults to report abuses, and advertised it widely.

MIDES provided funding to children's shelters operated by NGOs in seven provinces. MIDES continued a program that used pamphlets in schools to sensitize teachers, children, and parents about mistreatment and sexual abuse of children.

The law prohibits consensual sex with a girl age 14 to 18 and provides a sanction of one to three years' imprisonment; when the child is younger than 14, the sanction is four to 10 years' imprisonment. The law provides for three- to five-year prison terms for anyone who practices, facilitates, or promotes the corruption of a minor. The law criminalizes child pornography, for which it also provides penalties of three to five years' imprisonment.

*Trafficking in Persons.*—The law specifically prohibits trafficking in persons for the purpose of sexual exploitation. While trafficking for forced labor was not specifically prohibited under the law, it was punishable under other statutes and the constitution.

Persons were trafficked to, from, and within the country. An estimated 50 to 100 persons were trafficked to the country for commercial sexual exploitation in 2008. The PNP Sex Crimes Unit reported that most victims trafficked into the country came from Colombia, the Dominican Republic, and Central America. The primary destinations for victims trafficked from the country were Jamaica and Europe. Most victims trafficked within the country were women and children trafficked into the sex trade. The PNP Sex Crimes Unit reported that the vast majority of trafficking victims were women older than 18 years.

The principal traffickers in the country were owners or administrators of night clubs, massage parlors, and brothels, and most transnational trafficking occurred using valid travel documents and was conducted through official ports of entry.

The PNP Sex Crimes Unit has responsibility for investigating and arresting persons involved in trafficking. The unit worked closely with the PNP Special Section on Crimes of Sexual Exploitation and the Division of Crimes relating to Shame, Integrity, and Sexual Liberty.

The law criminalizes trafficking for commercial sexual exploitation and proscribes the promotion of sex tourism and use of the Internet for soliciting for sexual exploitation. Persons who engage in human trafficking for sexual activity can receive five to eight years in prison or, in cases involving a minor, eight to 10 years. The law permits undercover operations and the monitoring of suspects' computers in sex crime cases.

A government prosecutor, based in Panama City, was dedicated solely to prosecuting trafficking cases. Additionally, each province has a prosecutor trained in trafficking cases. The PNP Sex Crimes Unit investigated cases of child prostitution, child pornography, and sexual trafficking; the Prosecutor's Office initiated its own investigations. There was no information available on the outcome of the investigations.

The law provides for a registry of businesses dedicated to entertainment in the country. It is intended in part to limit requests for visas for those intending to work in the adult entertainment industry, permit monitoring of businesses that apply, and ensure that the businesses operate legally. The law also requires visa holders

intending to work in the entertainment industry to attend an antitrafficking education seminar. Visa applicants must provide comprehensive personal information, make a \$1,000 deposit with the Immigration Directorate, and provide proof of a return ticket to their home countries. No entertainment visas have been granted to employees of bars or nightclubs under the new law.

Immigration law emphasizes cases involving minors and provides for a special trafficking victims' unit within the Immigration Directorate.

According to the Integrated Crime Statistics System at the Ministry of Government and Justice, during the year authorities nationwide opened eight cases of trafficking (organizing or facilitating the movement of an individual to be exploited in prostitution against their will) down from 14 cases in 2008, and seven cases of third-party prostituting of a minor, up from five cases in 2008.

According to the National Commission for the Prevention of Crimes of Sexual Exploitation (CONAPREDES), during the year the first circuit prosecutor for Panama City opened five cases of trafficking involving four adults and one minor; nine cases of adults paying for sex with a minor; five cases of third-party prostituting of a minor; and 26 cases of child pornography. Two trafficking cases at the Supreme Court have been pending since 2007.

Outside of Panama City, statistics were poorly maintained and did not reflect systematic forensic practices and often did not specify charges made in particular cases or record ages of victims. However, both NGO and government entities reported anecdotally that sex trafficking was a greater problem in Colon and the interior than in Panama City.

MIDES is charged with protecting victims through shelters and related services. The law does not hold trafficking victims criminally responsible for prostitution or immigration crimes. The law provides for indemnification of victims of trafficking, even if they return to their home country, and for the costs of medical and psychological treatment, temporary housing, legal fees, and emotional suffering.

The country's consular officers provided assistance to Panamanian trafficking victims. MIDES continued providing shelter and other services to victims of commercial sexual exploitation, using substitute families, its own shelter, and the shelter of the NGO Hogar Malambo, which it subsidized. The government shelter, which was located in a former prison, did not have adequate infrastructure to house trafficking victims.

The government worked with the International Labor Organization's (ILO's) International Program on the Elimination of Child Labor (IPEC) on trafficking initiatives, including producing pamphlets on sexual exploitation and trafficking for distribution to public school educators. The Commission on Justice and Peace, a Catholic NGO, counseled victims about their rights and modes of assistance, and the Center of Legal Assistance provided legal assistance for victims. The Center of Family Studies and Training researched trafficking and educated women about trafficking and gender-based crime. The law provides for a registry of minors traveling internationally without parents or other legal guardians.

The Ministry of Government and Justice is responsible for developing policies to reduce trafficking in persons. CONAPREDES allocated funding for combating trafficking and for victims' assistance via member cabinet agencies. To fund CONAPREDES and these activities, the law allows customs authorities to collect one dollar from each tourist leaving the country; however, the government had not implemented a mechanism to collect these funds.

The government cooperated through information sharing with international investigations of persons accused of trafficking.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination based on physical or mental disability; however, the constitution permits the state to deny naturalization to persons with mental or physical disabilities. The law mandates access to new or remodeled public buildings for persons with disabilities and requires that schools integrate children with special needs. In practice persons with disabilities experienced substantial discrimination in employment, education, access to health care, and other state services. Some public schools admitted children with mental and physical disabilities, but most did not have adequate facilities for children with special needs. The government installed ramps in some schools and mainstreamed some children with disabilities. Few private schools admitted children with special needs.

By year's end the ombudsman had received 11 complaints of violations of the rights of persons with disabilities.

The National Secretariat for the Social Integration of Persons with Disabilities is the government agency responsible for protecting the rights of persons with disabili-

ities. The Ministry of Education and MIDES share responsibilities for educating and training minors with disabilities.

The law provides that a minimum of 2 percent of workers at a given company be persons with disabilities, with the Ministry of Labor and Labor Development (MITRADEL) responsible for placing workers with disabilities in suitable jobs; however, in practice placement remained difficult.

The government operated the Family Businesses Project, which assisted low-income families with members with disabilities to open microbusinesses. The government disbursed \$50 monthly and donated rehabilitation equipment to low-income persons with disabilities.

*National/Racial/Ethnic Minorities.*—Minority groups have generally been integrated into mainstream society, but problems continued with negative attitudes among all ethnic communities toward members not belonging to their particular group. Prejudice was directed at recent immigrants; cultural differences, immigration status, and language hindered immigrant and first-generation Chinese, Indians, and Middle Easterners from integrating into mainstream society. Additionally, some members of these communities were themselves reluctant to integrate into mainstream society. Members of these groups often owned major businesses or worked in the country's retail trade: A constitutional provision reserving retail trade for citizens of the country generally was not enforced.

The black community continued to be underrepresented in positions of political and economic power, and many blacks remained clustered in economically depressed areas of Colon and Panama City. Prejudice toward blacks was generally subtle, taking the form of "right of admission" policies at restaurants and commercial establishments, which discriminated against darker-skinned individuals or those of lower social status.

The law prohibits discrimination involving entry to public or commercial establishments; however, in practice, cases of discrimination were difficult to prove and legal remedies difficult to obtain.

There were reports of racial discrimination against various ethnic groups in the workplace. In general lighter-skinned persons were represented disproportionately in management positions and jobs that required dealing with the public, such as bank tellers and receptionists. Some businesses discriminated against citizens with darker skin through preferential hiring practices. Employers often required job applicants to submit photographs with their resume, which the employers used to discriminate against persons based on appearance.

*Indigenous People.*—The law affords indigenous people the same political and legal rights as other citizens, protects their ethnic identity and native languages, and requires the government to provide bilingual literacy programs in indigenous communities. Indigenous persons have the legal right to take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. There were legally designated comarcas (provincial-level indigenous regions) governed by traditional community leaders for five of the country's seven indigenous groups, including the Embera-Wounaan, Ngobe-Bugle, and Kuna. The government did not recognize comarcas for the Bri-Bri and Naso communities.

The Ministry of Government and Justice maintained an Office of Indigenous Policy. Although federal law is the ultimate authority on indigenous reserves, local groups maintained considerable autonomy. The government recognized traditional Kuna marriage rites as the equivalent of a civil ceremony. Indigenous workers had greater health problems and mortality rates, suffered from lack of educational and health services, had lower life expectancy, and experienced higher levels of malnutrition compared to nonindigenous workers. The International Fund for Agricultural Development estimated the poverty rate among the indigenous population at 95 percent. Although indigenous persons comprised only 10 percent of the population, they accounted for 19 percent of those considered poor and 34 percent of those in extreme poverty.

Many indigenous people misunderstood their rights and failed to employ legal channels when threatened because they did not have an adequate command of Spanish. Outside settler encroachment continued to threaten indigenous comarcas.

Social and employment discrimination against indigenous people was widespread. Employers frequently did not afford indigenous workers basic rights provided by labor laws such as a minimum wage, social security benefits, termination pay, and job security. Indigenous laborers in the country's sugar, coffee, and banana plantations continued to work under worse conditions than their nonindigenous counterparts. Employers were less likely to provide quality housing or food to indigenous migrant laborers, and the children of these workers were much more likely to work

long hours of heavy farm labor than nonindigenous children. An October ILO report estimated that 35 percent of child laborers were located in indigenous areas.

In July the government created a high-level committee chaired by the vice president and led by the vice minister of government to resolve sensitive issues involving land and human right disputes of several indigenous groups.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—In 2008 the country decriminalized sodomy. There was societal discrimination based on sexual orientation and gender identity, which often led to denial of employment opportunities. The PNP's regulations describe homosexuality as a "grave fault." The advocacy group New Men and Women of Panama advocated for homosexual rights and organized an annual gay pride parade.

*Other Societal Violence or Discrimination.*—The law prohibits discrimination against persons with HIV/AIDS in employment and education, but discrimination continued to be common due to ignorance of the law and a lack of mechanisms for ensuring compliance. The Ministry of Health and Social Security provided treatment for HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law recognizes the right of private-sector workers to form and join unions of their choice, a choice that is subject to the union's registration with the government. The law requires a minimum of 40 persons to form a private-sector union and permits only one trade union per business establishment; the ILO Committee of Experts criticized both provisions as violations of workers' rights to organize. The law permits workers to organize unions under a skill set or trade, as long as these unions have 40 members. These unions may operate alongside employer-specific unions in the same business. Executive Decree 27 passed in June protects employees from employer interference in labor rights, specifically including "employer-directed unions," and mandates that unions be freely chosen by workers without penalty. According to the National Council of Organized Workers, 8 to 10 percent of workers in the private sector were unionized.

The law prohibits public servants from forming unions but allows them to form associations, which can bargain collectively on behalf of members. Union leaders for both public- and private-sector unions must be citizens. The government reduced the minimum number of public servants required to form a worker association from 50 to 40, a number the ILO Committee of Experts still considered too high.

The law provides that if the government does not respond to a registration application within 15 days, the union automatically gains legal recognition; however, unionists asserted that such automatic registration did not occur in practice. MITRADEL reported that inadequate personnel resources, case backlogs, and incomplete or inaccurate information in applications delayed the processing of new registrations within the required time frame.

The National Federation of Public Servants (FENASEP), an umbrella organization of 21 public-sector worker associations representing primarily administrative staff of government agencies, was not permitted to call strikes or negotiate collective bargaining agreements, as individual associations negotiate on behalf of their members. Other public workers, such as doctors, nurses, and firefighters, have separate associations that negotiate on their behalf. The law grants public employees a limited right to strike, except for those in areas vital to public welfare and security, including police and health workers. At least 25 percent of the workforce must continue to provide minimum services in the case of administrative workers, and 50 percent of workers providing "essential public services," such as transportation, firefighting, telecommunications, and mail, must continue to provide those services.

The ILO Committee of Experts expressed continued concerns that the government had not amended the law to permit strikes by federations such as FENASEP. The ILO also requested that the government take the necessary steps to guarantee the right to strike for public servants who do not exercise authority in the name of the state, such as transport workers or workers in the export processing zones. Executive Decrees 25 and 26, promulgated June 5, increased transportation workers' ability to strike by limiting the scope of strike restrictions on essential transportation services to those involving public passenger services.

The law governing the autonomous Panama Canal Authority prohibits the right to strike for its 9,500 employees but does allow unions to organize and to bargain collectively on such issues as hours and safety and provides for arbitration to resolve disputes.

*b. The Right to Organize and Bargain Collectively.*—The law provides all private-sector and most public-sector workers the right to organize and bargain collectively, and private-sector unions exercised this right widely. The law establishes a concilia-

tion section in MITRADEL to resolve private-sector complaints and provides a procedure for mediation. These conciliation tribunals include representatives from government, labor, and the private sector and address cases in which the claim in dispute is no more than \$1,500. While labor leaders favored these tribunals, some civil society groups criticized the tribunals as routes for circumventing the role of the judiciary and leaving interpretation of labor laws to the discretion of persons who might lack expertise.

For public-sector workers, a Board of Appeal and Conciliation in the Ministry of the Presidency hears and resolves complaints for public-sector workers. If not resolved by the board, complaints are referred to an Arbitrage Tribunal, which consists of representatives from the employer, the employee association, and a third member chosen by the first two. Decisions of the Arbitrage Board are final.

Employers in the retail industry frequently hired temporary workers to circumvent labor code requirements for permanent workers. In lower-skilled service jobs, employers often hired employees under three-month contracts for several years, sometimes sending such employees home for a month and later rehiring them. Employers also circumvented the law requiring a two-week notice for discharges by dismissing some workers one week before a holiday. Due to labor laws that make it difficult to fire employees who have worked two years or more, employers frequently hired workers for one year and 11 months and subsequently laid them off.

Several laws enacted during the year limit employers' ability to hire temporary or subcontracted workers on serial contracts. In addition, two executive decrees issued during the year strengthened the ability of workers to bargain collectively. MITRADEL's Manual of Labor Rights and Obligations provides that unorganized workers can petition MITRADEL regarding labor rights violations and exercise the right to strike; however, only unions can negotiate collective bargaining agreements. However, Supreme Court decisions have recognized that collective agreements negotiated between employers and unorganized workers have legal status equivalent to collective bargaining agreements.

The leaders of the four public-service worker associations enjoyed legal immunity from dismissal and other employer retaliatory behavior in relation to worker representation and organizing activities. The labor code prohibits employer antiunion discrimination and protects workers engaged in union activities from loss of employment or discriminatory transfers.

Unions and collective bargaining are permitted in export processing zones (EPZs) and call centers. A strike is considered legal only after 36 work days of conciliation; otherwise, striking workers could be fined or fired. These procedures were somewhat more prescriptive than those that generally apply.

There were approximately 1,550 employees in the country's 17 EPZs and 8,830 employees in the country's 54 call centers, which operated under the law applicable to EPZs. Other call centers were registered with the Public Services Authority and were not subject to the EPZ's laws.

*c. Prohibition of Forced or Compulsory Labor.*—No law expressly prohibits forced labor of adults or children, although the government stated that forced labor could be prosecuted under provisions of constitutional law and other civil and criminal statutes, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law contains provisions to prevent exploitation of children in the workplace. MITRADEL, which has responsibility for enforcement, was reasonably effective in enforcing the law in the formal sector. During the year the ministry performed inspections to ensure compliance with child labor regulations.

The labor code prohibits the employment of children under age 14, although exceptions can be made for children 12 and over to perform light farm work so long as it does not interfere with their school hours. Children who have not completed primary school may not begin work until age 15. The law prohibits 14- to 18-year-olds from engaging in potentially hazardous work. The law identifies such hazardous work to include work with electrical energy, explosives, and flammable and toxic or radioactive substances; work underground and on railroads, airplanes, or boats; and work in nightclubs, bars, and casinos. Youths under 16 years may work no more than six hours per day or 36 hours per week, while those 16 and 17 years old may work no more than seven hours per day or 42 hours per week. Children under 18 may not work between 6:00 pm and 8:00 am.

Businesses that employ an underage child are subject to civil fines, while employers who endanger the physical or mental health of a child can face two to six years' imprisonment. MITRADEL enforced these provisions in response to complaints and has authority to order the termination of unauthorized employment. The govern-

ment acknowledged that it was unable to enforce some child labor provisions in rural parts of the country; due to insufficient staff, MITRADEL conducted only limited inspections in those areas.

According to the 2008 child labor survey performed by the government in conjunction with ILO-IPEC, approximately 90,000 children, 30 percent of whom did not attend school, engaged in labor, predominantly in agriculture and in the informal sector of the economy.

Child labor violations occurred most frequently in rural areas, in subsistence and commercial agriculture, especially during the harvest of coffee, onions, melons, sugarcane, and tomatoes. According to the 2008 survey, 53,300 children (and almost 100 percent of employed indigenous children) worked in the agricultural sector. Farm owners often paid according to the amount harvested, leading many laborers to bring their young children to the fields to help with the work. The problem of child labor in agricultural areas fell most heavily on indigenous families, who often migrated out of their isolated communities in search of paid work and whose frequent migrations interrupted schooling.

According to the 2008 census, 4,500 children between the ages of five and 17 worked as domestic servants, although the law prohibited such employment under age 14. Government enforcement of domestic labor violations was traditionally weak because the place of work was a private residence. Children also worked in the informal sector, where 7,700 performed personal services; 10,500 worked in trade and the repair of motor vehicles and appliances; 3,600 in manufacturing; and 3,100 in construction.

The government provided awareness raising and training on combating child labor for officials and civil society. In January the government created the National Secretariat of Children, Adolescents and Family (SENNIAF) under Law 14. SENNIAF is an independent and autonomous entity with an initial budget of two million dollars. SENNIAF searched the main streets of Panama City looking for children engaged in work and managed a hotline to receive reports of child labor. SENNIAF also operated programs that offered comprehensive services to children at risk and their families, including home visits, tutoring, counseling for parents, and school visits.

As part of the National Plan Against Child Labor (2007-11), the Committee for the Eradication of Child Labor and Protection of Working Adolescents (CETIPPAT) provided scholarships to children ages five to 14 who were working in the metropolitan areas of Panama City and Colon. At the end of the year these programs were also extended to the provinces of Chiriqui and Veraguas. CETIPPAT components included a variety of efforts to improve conditions for working children.

During the year CETIPPAT provided outreach to 3,369 children engaged in or at risk of child labor. The National Institute of Vocational Training for Human Development (INADEH) implemented programs for parents of those children involved in CETIPPAT's outreach program. The joint INADEH/CETIPPAT program focused primarily on the development of technical and administrative skills for parents and guardians of working children and children at risk and during the year gave 85 trainings benefitting 867 persons.

On September 15, the government-supported ILO-IPEC program closed its offices in the country. The NGO Casa Esperanza, CETIPAT, and MIDES continued programs in the comarca of the Ngobe-Bugle, in Santiago de Veraguas, and in Chorrera to provide scholarships to working children, to allow them to begin or return to primary school and to provide their parents job training and literacy programs.

*e. Acceptable Conditions of Work.*—The labor code assigns responsibility for setting minimum wages to a commission composed of representatives from government, employer organizations, and unions. This commission establishes hourly minimum wage rates for specific regions and for most categories of work. At year's end the minimum wage ranged from \$1.01 to \$1.87 per hour, depending on region and sector.

A worker working 40 hours per week, 50 weeks a year, and earning at the minimum wage median would earn approximately \$2,880, which exceeded the estimated poverty level of \$953 per year. Provisions for domestic workers were made on a monthly instead of hourly basis (\$121 to \$134 per month), since food and the use of housing facilities were considered part of their salary. The agricultural and construction sectors received the lowest and highest minimum wage, respectively. Wages in those sectors did not provide a decent standard of living for a worker and family. Most workers formally employed in urban areas earned the minimum wage or more. Approximately 40 percent of the population worked in the large informal sector and earned far below the minimum wage, particularly in most rural areas, where unskilled laborers earned from three to six dollars per day without benefits. The government did not enforce labor laws in most rural areas.

The law establishes a standard workweek of 48 hours, provides for at least one 24-hour rest period weekly, limits the number of hours worked per week, provides for premium pay for overtime, and prohibits excessive or compulsory overtime. MITRADEL generally enforced these standards in the formal sector.

MITRADEL is responsible for setting and enforcing health and safety standards and generally did so. Information on the number of workplace inspections during the year was unavailable.

Inspectors from MITRADEL and the occupational health section of the Social Security Administration conducted periodic inspections of hazardous employment sites and responded to complaints. The government failed to adequately enforce health and safety standards. Construction workers and their employers were lax about conforming to basic safety measures and equipment was often outdated, broken or lacking safety devices. Construction workers needed training to enable them to create safer working environments.

The labor code requires employers to provide a safe workplace environment, including the provision of protective clothing and equipment for workers, but does not specifically recognize the right of a worker to leave a dangerous work situation without jeopardy to continued employment. In practice workers removed themselves from situations that presented an immediate health or safety hazard without jeopardizing their employment.

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## PARAGUAY

Paraguay is a multiparty, constitutional republic with a population of approximately seven million. In April 2008 Fernando Lugo of the Patriotic Alliance for Change won the presidency in elections that were generally free and fair. Civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there were serious abuses in some areas. There were reports of killings by police, which the government occasionally investigated but rarely prosecuted. Some prisoners were reportedly subjected to torture and abuse by government agents. Prisons were routinely overcrowded. Political interference, corruption, and inefficiency in the judiciary were common, as was lengthy pretrial detention. Government corruption was a serious problem. Violence and discrimination against women, indigenous persons, persons with disabilities, and lesbian, gay, bisexual and transgender persons (LGBT) continued, as did trafficking in persons. Exploitation of child labor and violations of workers' rights were serious problems.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, there were occasional reports that security forces killed individuals using unwarranted or excessive force.

On August 5, police found the body of Higinio Aquino Santos in Ciudad del Este. Santos' father Valeriano Aquino Zorrilla stated that, prior to his death, police took his son into custody and released him after an extortion attempt. Zorrilla alleged that three policemen were responsible for the killing.

On October 5, policeman Nestor Eduardo Gonzalez Alonso fired warning shots to disperse a crowd in Villa Hayes, killing 16-year-old Roberto Ramon Mendoza. Prosecutors charged Alonso with murder. The case was pending at year's end.

On February 24, prosecutors of the August 2008 shooting of Leticia Veronica Lugo in Villa Elisa charged eight policemen with attempted murder and failure to assist a victim. The case remained pending at year's end.

There were no known developments in the December 2008 arrest of police officer Gustavo Arnaldo Duarte for the killing of security guard Salinas Vicente Gonzalez.

There were no known developments in the 2007 killings of Nancy Martinez, Cesar Gonzalez, Christian Delfino Morales, Rildo Ramirez, Alfonso Leguizamon, and Mario Leguizamon during a police raid in Minga Guazu.

On August 16, an appeals court reversed the 2007 acquittal of Alberto Magno Ferreria and ordered a new trial for the 2006 killing of Miguel Angel Benitez. The case remained pending at year's end.

*b. Disappearance.*—On October 15, the Paraguayan People's Army, which was suspected of kidnapping Luis Alberto Lindstrom in September 2008, kidnapped Fidel Zavala from his ranch near the Brazilian border.

Free Fatherland Party members Aristides Vera Silguero, Roque Rodriguez Torales, Simeon Bordon Salinas, Basiliano Cardozo Jimenez, Agustin Acosta Gonzalez, and Gustavo Lezcano Espinola remained incarcerated awaiting trial for the 2004 kidnapping and killing of Cecilia Cubas.

On July 23, officials located a grave containing human remains of Stroessner-era political prisoners in the Tacumbu area of Asuncion. The remains of two victims were recovered, and as many as 50 more were suspected to be buried in this plot. At year's end, excavation and forensic work continued under the direction of the ombudsman.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such treatment, and the government generally respected these provisions in practice. However, there were reports that some government agents employed such treatment. The Paraguayan Human Rights Coordinator (CODEHUPY), made up of 33 nongovernmental organizations (NGOs) and civic organizations, and the local NGO Committee of Churches for Emergency Aid (CIPAE) reported several cases of police torture and other abuses designed to extract confessions or intimidate detainees.

On January 17, CODEHUPY accused police and military forces deployed in San Pedro department of torturing several farmers following a December 2008 attack on a military outpost in Tacuati.

On August 21, Emiliana Quinonez Espinola alleged that District Police Chief Virginia Villar tortured her in order to obtain a confession for a theft in Guayaybi. Villar was previously accused of torture by five other alleged victims and was convicted in 2004 for beating Eseer Arens.

On June 26, the Supreme Court reopened the case against former minister of the interior Walter Bower and police officers Basilio Pavon, Merardo Palacios, and Osvaldo Vera. Bower and Pavon reportedly tortured Alfredo Caceres following an alleged coup d'etat in 2000. The case remained pending at year's end.

On August 27, a three-judge panel ordered that National Military Academy cadets Guillermo Benitez Adorno, Cesar Candia Britos, Francisco Sotelo Blanco, and Leonardo Fabio Martinez Rotela be placed under house arrest while awaiting trial for the March 2008 rape of a female cadet.

There were no developments, and none were expected, in the July 2008 case of alleged police torture of Domingo Lezcano and other landless farmers.

The government improved hygienic conditions and implemented controls to monitor and prevent abuse at the Neuropsychiatric Hospital in Asuncion in compliance with the July 2008 Inter-American Commission of Human Rights (IACHR) ruling on abuse at the hospital. The hospital transferred more than a dozen patients to three group homes opened during the year.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally did not meet international standards. An August 2008 Senate Human Rights Committee report stated that prisons remained in "deplorable" condition. The most serious problems included violence, mistreatment, overcrowding, inadequate staffing, deteriorating infrastructure, unsanitary living conditions, poor food safety standards, and inadequate medical and psychological care. The 20 penitentiaries and correctional centers held more than 6,000 inmates, 60 percent more than their design capacity of 3,800. Tacumbu Prison in Asuncion, designed to hold approximately 900 inmates, held over 3,000 prisoners; the penitentiary in Ciudad del Este, designed to hold about 300 inmates, held more than 650.

On August 15, Isacio Ocampos died in custody of the Concepcion Police Department. His family alleged that that he did not receive sufficient medical care after he showed signs of illness.

Prisons lacked adequate security controls. Inmates frequently carried weapons and committed acts of violence, particularly against other inmates. Inmate escapes were common. There were cases of inmates conducting illicit activities by bribing prison guards. On September 12, prosecutors arrested Pablo Soley and Eligio Lagrana, the director and the chief of security at the Social Rehabilitation Center at Cambyreta, for alleged extortion of prisoners.

Living conditions at Tacumbu Prison and the Ciudad del Este Regional Penitentiary, both men's prisons, remained poor. Regional penitentiaries in the departments of Guaira, Amambay, Concepcion, Itapua, Caaguazu, and Misiones held both men and women but in separate wings. In 2008 the Senate's Special Committee on Penal Reform and Penitentiaries cited the Ministry of Justice and Labor (MJT) for failing to house prisoners by gender in separate facilities.

Although the ministry assigned minors convicted of juvenile crimes in Asuncion, Concepcion, and Encarnacion to youth detention centers, juvenile offenders else-



where served their sentences in adult prisons. Living conditions in juvenile facilities were generally better than in adult prisons.

Prison officials and unauthorized prisoner leadership frequently separated inmates based on their ability to pay for better living conditions. Inmates could upgrade their accommodations for a monthly fee ranging from 15,000 to 700,000 guaranías (\$3 to \$150).

There were no new developments in the investigation of the alleged 2007 rape of female inmates by prison guards at San Juan Bautista Regional Center.

The government permitted independent monitoring of prison conditions and granted the media, human rights groups, and diplomatic representatives access to prisons with prior coordination from the MJT.

On March 27, the MJT established a Directorate of Health for Penitentiaries, Education Centers, and Housing Shelters. Red Cross volunteers provided training and classes to some prisoners under work training programs designed to rehabilitate them for their release back into society.

On September 14, the MJT closed the Amambay State Regional Penitentiary in the city of Pedro Juan Caballero after opening an improved facility.

*d. Arbitrary Arrest or Detention.*—The law prohibits arrest and detention without an arrest warrant signed by a judge. The law also stipulates that persons detained must appear before a judge within 24 hours to make a statement. The police may arrest without warrant persons apprehended in the act of committing a crime, and persons may be detained up to six hours by the Public Ministry. There were some reports of arbitrary arrest and detention of persons without a warrant.

*Role of the Police and Security Apparatus.*—The National Police, under the authority of the Interior Ministry, preserves public order, protects the rights and safety of persons and entities and their property, prevents and investigates crimes, and implements orders given by the judiciary and public officials. The military, under the president's authority, guards the country's territorial integrity and defends lawfully constituted authorities. The Defense Ministry, also under the president's authority but excluded from the military's chain of command, handled some defense matters. The law authorizes the Antinarcotics Secretariat (SENAD) and the Antiterrorism Secretariat (SEPRINTE), both under the president's authority, to enforce the law and maintain order in matters related to narcotics trafficking and terrorism.

Civilian authorities generally maintained control over the security forces. The security forces did not effectively coordinate law enforcement efforts. Although the government has mechanisms to investigate and punish security force abuses and corruption, there were regular reports of police involvement in crimes that went unpunished.

The 22,500-member National Police force was poorly trained, inadequately funded, generally corrupt, and shielded by impunity.

On August 21, President Lugo appointed Jose Gimenez as the new police commissioner in place of Viviano Machado, who resigned following allegations that his brother was involved with criminal elements.

The government continued to take steps to decrease and punish human rights violations committed by police officers. However, officers often continued to act with impunity. Although the National Police trained officers in human rights, there were routine incidents of police involvement in homicide, arms and narcotics trafficking, car theft, robbery, extortion, and kidnapping.

On September 16, prosecutors charged Agustin Rios and Ramon Lequizamon, both police officers working with the anti-kidnapping unit of the National Police, with extortion for allegedly demanding \$2,000 from an Uruguayan fugitive.

On October 13, Jose Dolores Amarillo, former head of the Narcotics Branch of the National Police, filed a complaint against Cesar Carrillo, the second in charge of the National Police, for allegedly ordering the return of confiscated cocaine to drug traffickers. Amarillo served 30 days in prison for insubordination. Authorities closed the case against Carrillo without charges because the only witnesses were the two immediate subordinates of Amarillo.

On February 25, prosecutors charged former defense minister Roberto Gonzalez Segovia, national deputies Magdaleno Silva and Jose Chamorro, and five others for issuing false documents to obtain special low-interest loans from Fondo Ganadero bank.

Corruption in the 12,000-member military continued.

*Arrest Procedures and Treatment While in Detention.*—Police may arrest individuals when authorized by a judicial or prosecutorial warrant or when they discover a crime in process. The law provides that, after making an arrest, police have up

to six hours to notify the Prosecutor's Office, at which point the Prosecutor's Office has up to 24 hours to notify a judge that it intends to prosecute the case.

The law provides detainees with the right to a prompt judicial determination regarding the legality of the detention, and authorities appeared to respect this right and to inform detainees promptly of the charges against them. The law permits detention without trial until the accused completes the minimum sentence for the alleged crime. This often occurred in practice. The law stipulates that pretrial detention may range from six months to five years based on the nature of the crime; in practice, detention was arbitrarily lengthy, and some detainees were held beyond their maximum allowable detention time.

The law allows judges to utilize "substitute measures," such as house arrest and bail in felony cases but prohibits their use in criminal cases. In nonfelony cases, judges frequently set relatively high bail, and many poor defendants were unable to post bond and thus waited in prison for trial. At the same time, minimal or no bonds were required of those with political or economic connections.

The law grants accused criminals the right to counsel, and the government provides representation to poor defendants. The government permitted defendants to hire attorneys at their own expense. Detainees had access to family members.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; in practice, however, political interference seriously compromised that independence. Politicians and interested parties routinely attempted to influence investigations and pressured judges and prosecutors. The judicial system provides for separate military, criminal, civil, and commercial courts. Courts remained inefficient and routinely subject to corruption. Although the judiciary was not formally allied with any political group, a 2007 report showed that approximately 62 percent of judges were members of the Colorado Party, which governed for 61 years.

The nine-member Supreme Court appoints lower-court judges and magistrates based on slates of three candidates submitted by the eight-member Magistrate's Council. The council also nominates for Senate approval a slate of three candidates for Supreme Court vacancies. Both selection processes were highly politicized, with specific seats customarily allocated by political party.

There are five types of appellate tribunals: civil and commercial, criminal, labor, administrative, and juvenile. Lower courts and justices of the peace handle civil and commercial, criminal, labor, and juvenile cases. In many rural communities, one justice of the peace handles all judicial matters. The military has its own judicial system, and the Supreme Court of Military Justice oversees military cases. The Superior Electoral Court (TSJE) oversees the electoral process and settles election disputes. The Supreme Court has final appellate jurisdiction over all courts and constitutional questions.

*Trial Procedures.*—The constitution provides for the right to a fair trial, which the judiciary nominally enforced through a lengthy trial process. In June the Center for Judicial Studies released a study indicating that only 47.9 percent of cases initiated in 2008 were resolved within one year. Wealthy or well-connected defendants received impunity by conspiring with judges and filing often-specious motions that slowed legal progress until their cases reached the statute of limitations.

The law provides for the use of three-judge tribunals in lieu of juries to rule on procedure, determine guilt or innocence, and decide sentences. A majority opinion is required to convict. One judge presides over misdemeanor cases when the maximum punishment does not exceed two years in prison and in civil cases.

All trials are open to the public. The law requires prosecutors to indict accused persons within 180 days of arrest. The 343 prosecutors and 98 public defenders on staff at the Public Ministry lacked the resources to perform their jobs adequately. Defendants enjoy a presumption of innocence and a right of appeal, and defendants and prosecutors may present written testimony from witnesses and other evidence. Defendants and their attorneys have the right of access to state evidence relevant to their cases.

There were instances when prisoners were held beyond their scheduled release dates. On February 11, prison officials released transgender Luis Gaspar Rojas (alias Rosana) two years and two months after the completion date of her eight-month sentence for theft of a cell phone.

On September 17, Minister of Justice Humberto Blasco released Leonardo Oviedo from Tacumbu Prison more than five years after his 2004 release date.

In October prison officials released Eulogio Amarilla from the Encarnacion Rehabilitation Center more than three years after his 2006 release date.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Citizens have access to the courts to bring lawsuits seeking damages for, or cessation of, human rights violations. There are administrative and judicial remedies for alleged wrongs, although these were rarely granted to citizens. The government experienced problems enforcing court orders.

*Property Restitution.*—The government generally enforced court orders with respect to seizure, restitution, or compensation for taking private property. However, systemic failures occurred.

During the year the government partially complied with the Inter-American Court of Human Rights' 2005 ruling in favor of the Yakye Axa indigenous community with full monetary restitution, including interest payments. The government did not deed land to the community, and on October 15, the Senate voted down a land expropriation measure, citing intercommunal conflicts and NGO interference. The government partially complied with the Inter-American Court of Human Rights' 2006 ruling in favor of the Sawhoyamaxa indigenous community by providing continued monetary restitution but did not award the community land.

In Puerto Casado ongoing land disputes dating back to 2000 between local residents and landowner Victoria SA resulted in regular clashes and damage to private property. The government did not enforce judicial decisions and court orders to return occupied land to Victoria SA.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits police entry into private homes except to prevent a crime in progress or when the police possess a judicial warrant. While the government and its security forces generally did not interfere in the private lives of citizens, human rights activists reported that officials abused their authority by entering homes and businesses without warrants. There were credible allegations that some government officials occasionally spied on individuals and monitored communications for partisan or personal reasons.

An investigation of Colonel Heriberto Galeano, former commander of the Presidential Escort Regiment, for illegally wiretapping telephones from his home remained open at year's end. Separately, on December 31, the Supreme Court confirmed lower court decisions absolving Galeano of charges of illicit enrichment.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Individuals criticized the government publicly and privately, generally without reprisal or impediment.

The independent media were active and expressed a wide variety of views with few legal restrictions. The media frequently criticized the government and freely discussed opposition viewpoints without censorship. Many media outlets reflected personal business or political interests, and ethical and professional standards were low.

Political officials often retaliated against media criticism by invoking criminal libel laws and suing the media to intimidate journalists and suppress further investigations. At the end of the year, ABC Color managing director Aldo Zuccolillo faced at least 20 criminal charges relating to defamation suits brought against him by former government officials.

During the year journalists were subject to harassment, intimidation, and violence due to their reporting. In contrast with 2008, there were fewer cases of government harassment of journalists.

On January 12, an unknown assailant shot and killed Martin Ocampos Paez, the director of a community radio station, at his home in Concepcion. Members of the Paraguayan Union of Journalists and the International Federation of Journalists speculated that Paez's death was linked to comments he made regarding the complicity of the police and local officials with drug traffickers in the region.

On February 5, two security officials at La Esperanza penitentiary assaulted Channel 13 journalist Richard Villasboa and camera operator Blas Salcedo after they attempted to report on the institution.

On March 8, private citizen Hugo Montiel Ortellado verbally assaulted and threatened with death journalist Aldo Lezcano because of opposition to articles published by the journalist's paper.

On September 14, alleged petroleum smugglers shot at journalist Javier Nunez as he photographed the theft of diesel fuel from the state oil company.

There were no known developments in the 2007 killing of Chilean radio journalist Alberto Tito Palma, the 2007 attack by log traffickers, and the 2007 threat by a local councilman against journalist Alberto Nunez in Capiibary, San Pedro Department.

In March the country hosted the biannual meeting of the Inter-American Press Association, during which President Lugo signed the organization's Chapultepec Declaration, affirming that "no law or act of government may limit freedom of expression or press, whatever the medium."

*Internet Freedom.*—There were no government restrictions on basic access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that there were 11 Internet users per 100 inhabitants in 2008.

Early in the year, the state-owned telecommunications company that controls most Internet access to and from the country occasionally blocked Web sites that used Voice Over Internet Protocol technology. There were reports that this practice had ended by year's end.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The government generally protected demonstrators from indiscriminate violence. The law restricts demonstrations to certain times and places and specifically prohibits meetings or demonstrations in front of specified government buildings. Although the law prohibits closing roads as a form of protest, demonstrators did so on many occasions during the year. Police sometimes forcibly removed protesters.

During the year campesino (peasant farmer) movements occasionally protested in the interior of the country, blocked major highways, and occupied private ranches to advocate for land reform. These protests occasionally turned violent, although less frequently than in 2008.

*Freedom of Association.*—The constitution provides for the right of citizens to free association, and the government generally respected it in practice.

*c. Freedom of Religion.*—The constitution provides for freedom of religion, and the government generally respected religious freedom in practice.

A 2008 law allows doctors to administer blood transfusions in life-threatening situations without patient consent. Some Jehovah's Witnesses refused to give permission for blood transfusions. Early in the year, doctors at the National Hospital in Itaugua gave a newborn several blood transfusions without the consent of his parents. No new developments were reported in the 2007 case of Jehovah's Witnesses Jose Ortega and Asuncion Ortega Gaona, who were arrested for refusing to allow doctors to give their minor daughter blood transfusions.

On August 13, army major Marcos Fabio Meaurio Melgarejo, an evangelical Christian, was reprimanded by his unit commander for failing to attend a Catholic Mass. The army justified the reprimand by citing the failure to follow orders.

*Societal Abuses and Discrimination.*—There were infrequent reports of violence, harassment, and discrimination against members of religious groups.

The Jewish community numbered approximately 1,000. Anti-Semitic and pro-Nazi messages and symbols, including graffiti, appeared sporadically. The government investigated but did not identify suspects.

For a more detailed discussion, see the 2009 International Religious Freedom Report at: [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government's National Commission of Refugees cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. CIPAE acted as the UN's local legal representative. Authorities frequently prohibited those accused of crimes from leaving the country and, on occasion, barred those convicted of crimes from traveling abroad after completing their sentences. The law expressly prohibits forced exile.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion,

nationality, membership in a particular social group, or political opinion. The government also provided temporary protection to individuals who may not qualify as refugees. The government permitted persons refused asylum or refugee status to obtain legal permanent residency.

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

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

*Elections and Political Participation.*—In the April 2008 multiparty general elections, Fernando Lugo of the Patriotic Alliance for Change won the presidency and ended 61 years of uninterrupted Colorado Party rule. International observers characterized the elections as generally free and fair.

Although political parties operated without restriction or outside interference, the government must approve their participation in elections. The government prohibits unregistered parties, including those with military wings, and independent candidates from participating in national and departmental elections; however, independent candidates may participate in municipal elections.

On July 21, the presiding judge concurred with a prosecutorial request and dismissed the complaint against Senator Juan Carlos Galverna for fraud he admitted committing in the 1992 Colorado Party primary. Confirmation of the decision was pending before the Supreme Court at year's end.

Prosecutors formally closed the criminal investigation into the alleged August 2008 meeting of former president Duarte, retired general Lino Oviedo, former Senate president Gonzalez, Attorney General Ruben Candia Amarilla, and TSJE president Juan Manuel Morales to discuss a coup d'etat against President Lugo. Prosecutors reported lack of sufficient evidence to press charges.

There were no legal impediments to women's participation in government and politics. There were 17 women in Congress (seven of 45 senators and 10 of 80 national deputies). Of 36 appeals court judges, 10 were women. One woman served on the Supreme Court, one as a departmental governor, and three as members of the Mercosur Parliament. One woman headed a cabinet-level ministry, and four women held ministerial rank. The electoral code requires that at least 20 percent of each party's candidates in their internal primaries be women.

Although there were no legal impediments to participation by minorities or indigenous groups in government and politics, no indigenous persons won office in the 2008 elections. On August 20, President Lugo named Lida Acuna director of the National Institute of the Indigenous (INDI) after indigenous communities protested limits on their political and human rights.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Under a law prohibiting court cases from lasting longer than five years, politicians convicted in lower courts routinely avoided punishment by filing appeals and motions until the statute of limitations was reached. The World Bank's Worldwide Governance Indicators reflected that corruption was a severe problem.

The Public Ministry, under the authority of the attorney general, commissioned several units of prosecutors to combat corruption. The Public Ministry worked with the Ministry of Industry and Commerce's Money Laundering Secretariat to investigate and prosecute corruption cases.

Elected officials are required to disclose their finances prior to running for office; however, many did not. Those who filed often filed late, incomplete, or misleading reports while engaging in corrupt practices with impunity and using political immunity to avoid prosecution.

On November 2, anticorruption prosecutors under the Public Ministry raided the office of Liz Perez Idoyaga, the head attorney of the TSJE in Asuncion. Idoyaga attempted to dispose of two briefcases that allegedly contained records of her theft of government salaries for more than a dozen nonexistent employees she claimed worked for her. In December the TSJE rescinded contracts for more than 5,000 of its 7,500 allegedly salaried employees.

On November 5, a tribunal sentenced Eugenio Escobar Cattebecke to two years and six months in prison for diverting more than 1.3 billion guaranies (\$280,000) in public money during his term as governor of Presidente Hayes.

On December 11, police arrested fugitive Alberto Luciano Chavez Pereira in Ciudad del Este. Federal prosecutor Victor Maldonado ordered his release the following

day. Eyewitness and press reports indicated Maldonado accepted up to \$50,000 from Chavez in return for his release. At the order of the attorney general and vice minister of interior, authorities rearrested Chavez within hours of his release. There was no known government investigation into the bribery allegations.

On December 27, SENAD officers arrested Brazilian drug trafficker Jarvis Pavao in Concepcion Department. A list discovered during the raid indicated he made regular payments to police headquarters throughout the region.

On June 4, a judge released former labor and justice minister Silvio Ferreira on bond and barred him from leaving the country pending completion of his embezzlement trial.

On June 23, prosecutors petitioned the Supreme Court to overturn a lower court ruling that limited the illicit enrichment investigation of former president Nicanor Duarte Frutos. The Supreme Court had not ruled on the motion at year's end.

On September 29, the Supreme Court rejected former director of the National Service of Professional Promotion Nicolas Donato Dagogliano's appeal to overturn his April 2008 conviction for embezzling \$500,000 from the agency from 2001 to 2003. A government lawsuit to reclaim the embezzled money from Dagogliano remained pending at year's end.

The September 2008 case involving the detention of 13 officials from the National Administration of Navigation and Ports for alleged embezzlement remained pending at year's end.

On December 4, anticorruption prosecutors accused prosecutor Gustavo Gamba of soliciting a \$150,000 bribe from Colorado Senator Victor Bernal Garay. On June 3, prosecutors taped Bernal delivering an initial payment of \$90,000 to Gamba in return for Gamba's promise to dismiss one of five cases pending against Bernal involving his reported misuse of funds while serving as director of the Itaipu Binational Entity. Authorities suspended Gamba. Bernal continued to enjoy political immunity while in office.

There were no new developments in the 2007 cases of the videotaped extortion by former foreign minister Ruben Melgarejo Lanzoni and prosecutor Juan Claudio Gaona; the misuse of public funds by Deputy Victor Bogado, who continued to enjoy political immunity while in office; or the bribery case of environment ministry official Jorge Colonel. These and a number of similar cases involving high-level corruption were paralyzed by political interference and corruption in the judicial system.

On December 10, the Supreme Court confirmed lower court rulings dismissing the case against former president Luis Angel Gonzalez Macchi, who was convicted in 2006 for illicit enrichment and making false statements.

Although the law provides for public access to government information, citizens and noncitizens, including foreign media, had limited access to government information. Insufficient infrastructure and efforts to hide corruption hindered access to information; however, the government improved transparency by publishing information publicly via the Internet.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

More than 50 domestic and international human rights groups, including the International Organization for Migration (IOM), the International Labor Organization (ILO), and the UN Children's Fund (UNICEF), operated without government restriction, investigating and publishing their findings on human rights cases. Major local NGO umbrella organizations representing many local human rights NGOs operated independently.

Government officials cooperated with domestic NGOs and met with domestic NGO monitors but often did not take action in response to their reports or recommendations. The government generally did not restrict domestic NGO operations or use tactics to suppress criticism by domestic NGOs. The government generally cooperated with international human rights groups, humanitarian NGOs, and international governmental organizations and regularly permitted visits by representatives of these organizations.

Ombudsman Manuel Paez Monges was the country's primary human rights advocate. The ombudsman employed approximately 160 lawyers and support personnel, including 70 who worked in municipal offices outside Asuncion. Human rights organizations and victims of the Stroessner dictatorship criticized Monges for what they considered ineffective handling of cases. Congressional interference limited the ombudsman's ability to handle cases involving government officials, and budgetary constraints hindered operations.

The MJT's director general of human rights chaired the National Commission on Human Rights. The office forwarded information concerning human rights abuses to the Public Ministry for action. The Foreign Ministry's Human Rights Section or-

ganized an interministerial roundtable on human rights that met periodically and served as a forum for human rights officials from the government and NGOs.

On February 26, President Lugo signed a decree establishing an executive inter-agency committee responsible for implementing decisions and recommendations of the Inter-American Court and Commission of Human Rights.

In October a team of government investigators released military records relating to political repression and human rights violations by the Stroessner regime.

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

While the law prohibits discrimination based on race, gender, disability, language, or social status, certain groups, such as indigenous persons, faced discrimination in practice.

*Women.*—The law criminalizes rape, including spousal rape, and provides penalties of up to 10 years in prison for rape or forcible sexual assault. If the victim is a minor under the age of 18, the sentences range from three to 15 years. According to the Public Ministry, rape was a significant problem. The government generally prosecuted rape allegations and often obtained convictions; however, many rapes went unreported, and the police were generally reluctant to act on rape reports.

Although the law criminalizes domestic violence, including spousal abuse, and stipulates a penalty of two years in prison or a fine for those who are convicted, it requires that the abuse be habitual before it is considered criminal. Those convicted were typically fined. Despite increased reports of domestic violence, complaints were often withdrawn soon after filing due to spousal reconciliation or family pressure. In some cases the courts mediated in domestic violence cases. Domestic violence was very common, and thousands of women were treated for injuries sustained in domestic altercations. The Secretariat of Women's Affairs (SMPR) received 2,409 domestic abuse complaints, an 18 percent increase from 2008.

The SMPR operated a shelter for female victims of trafficking or domestic violence in Asuncion. The SMPR coordinated victim assistance efforts with the National Police, health care units, the Public Ministry, and women's NGOs. NGOs provided health and psychological assistance, including shelter, to victims. The SMPR also provided victims assistance courses for police, health care workers, and prosecutors. The SMPR and NGOs Kuna Aty and Women's November 25th Collective offered services to abused women in Asuncion. Kuna Roga offered services to abused women in Encarnacion.

The law prohibits the sexual exploitation of women, but the authorities did not enforce the prohibition effectively. Prostitution is legal for persons over the age of 18, but exploitation and trafficking of women, particularly underage prostitutes, remained serious problems.

The law prohibits sexual harassment and stipulates a penalty of two years in prison or a fine for those who are convicted; however, sexual harassment remained a problem for many women. Prosecutors found sexual harassment and abuse claims difficult to prove, and most complaints were settled privately without involving prosecutors.

Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. The government provided access to information on contraception and skilled attendance at delivery and in postpartum care. Services were concentrated in cities, and rural areas faced gaps in promised coverage. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Although women generally enjoyed the same legal status and rights as men, gender-related discrimination was widespread. Women often were paid significantly less than men for the same work and experienced more difficulties finding work. According to the General Directorate of Statistics, Surveys, and Censuses, the December 2008 unemployment rate for women in the formal sector was 7.4 percent, compared with 4.6 percent for men. Women generally were employed as domestic workers, secretaries, and customer service representatives. The SMPR sponsored programs intended to give women equal access to employment, social security, housing, ownership of land, and business opportunities.

*Children.*—Nationality is derived by birth within the country's territory, by birth to government employees in service outside of the country, or by birth to a citizen residing temporarily outside of the county. Citizenship is conveyed to all nationals who attain the age of 18 as well as individuals over age 18 when they are naturalized.

The failure to register all births resulted in some discrimination, including the denial of public services. In 2008 the Secretariat for Children and Adolescents (SNNA)

registered approximately 255,000 births, but unofficial estimates suggested that up to 35 percent of births were unregistered.

Child abuse and neglect were serious problems. The National Commission to Prevent and Eradicate the Exploitation of Children (CONAETI) worked to prevent the exploitation of child labor. The SNNA and children's NGOs also organized programs to combat child abuse.

In August the SNNA provided funds to the Grupo Luna Nueva hostel for exploited children. The NGO Children's and Adolescents' Care and Assistance Center (CEAPRA) managed a shelter in Ciudad del Este partially supported by the SNNA, and local Catholic charities operated several children's homes and orphanages in several locations, including Asuncion and Encarnacion. The NGO Integral Adolescent Attention Service assisted abused children in Villarrica, Guaira Department. In many cities, the municipal council for children's rights assisted abused and neglected children.

Sexual exploitation of children, principally in prostitution, was a serious problem. According to the SNNA, many underage children were forced to work as prostitutes or domestic servants for survival and were sexually abused. The law provides penalties of up to six years' imprisonment for prostitution of victims between the ages of 14 and 17 and eight years' imprisonment for victims younger than 14. The minimum age for consensual heterosexual sex is 14 when married and 16 when not married. While there is a statutory rape law for those under 14, the maximum penalty is a fine for opposite-sex partners and prison for same-sex partners. Enforcement was not vigorous. Child pornography is illegal. Production of pornographic images can result in a fine or up to three years in prison. This penalty can be increased to 10 years in prison depending on the age of the child and the child's relationship to the abuser.

On November 4, the country signed an agreement with the IACHR concerning the forced disappearances of Marcelino Gomez Paredes and Christian Ariel Nunez, child soldiers who were recruited into the armed forces in 1997 at age 14 and disappeared in 1998. The agreement obligates the country to bring its penal code on forced disappearance into compliance with the Inter-American Convention on the Forced Disappearance of Persons and to establish a commission to investigate the disappearance of children.

*Trafficking in Persons.*—The law prohibits most forms of trafficking in persons; however, there were reports that persons were trafficked to, from, through, and within the country.

Anecdotal evidence suggested that each year several thousand women, children, adolescents, and transgender individuals were trafficked domestically and internationally. An estimated 80 percent of the victims were young women and adolescent girls. CEAPRA, which operated a children's shelter in Ciudad del Este, estimated in 2008 that up to 20 victims were trafficked each day to Brazil and Argentina via the Tri-Border Area (TBA). As of December 7, the Asuncion antitrafficking unit had 118 pending cases involving victims trafficked internationally. Most victims were trafficked to Argentina (60 percent), Spain (16 percent), and Bolivia (13 percent); smaller numbers of victims went to Chile, France, Korea, and Japan. Domestically, most victims were trafficked to Asuncion, Ciudad del Este, and Encarnacion.

Most trafficking exploited victims for the purposes of prostitution, domestic servitude, and manual labor. Most victims lived in the rural eastern departments of Alto Parana, Canindeyu, Caaguazu, and Itapua.

Studies showed that many trafficking victims were working as street vendors when traffickers targeted them. Grupo Luna Nueva estimated that more than 80 percent of the victims they worked with had drug or alcohol addictions.

The principal traffickers worked in organized criminal syndicates based in Argentina and Brazil with local contacts operating nationwide. Women who were paid to find victims made initial contact on behalf of traffickers and offered false promises of employment. Victims who accepted their offers were referred to handlers, who facilitated travel and lodging and issued false travel documents. Traffickers then transported victims domestically or internationally through illegal or unmonitored border crossing points.

On June 9, the trafficking in persons statute passed in July 2008 went into effect. The statute aligns the law with several ILO antitrafficking conventions and punishes convicted international traffickers with up to 12 years in prison. It strengthens penalties for persons who traffic minors and use excessive violence against their victims. The statute does not specifically address domestic human trafficking, although other laws, including the Children and Adolescents Law, the Domestic Violence Law, and a pandering statute, can be used to prosecute domestic traffickers.



The Public Ministry's special division to combat trafficking in persons opened 119 cases and indicted 47 suspected traffickers. There were two trafficking convictions during the year and one extradition to Argentina. The government assisted with international investigations and extradited citizens who were accused of trafficking in other countries.

On September 14, Bolivian authorities discovered 13 Paraguayan women between the ages of 18 and 22 living as prisoners in a brothel in Bolivia. The government repatriated the women and placed them in a hostel for trafficked women run by the Women's Ministry.

There were no known developments in the 2008 investigation into a syndicate that trafficked dozens of adolescent girls to Chile.

The Public Ministry investigates and prosecutes traffickers. Its antitrafficking unit consists of two prosecutors dedicated to fighting human trafficking. The ministry worked with the National Police, the Foreign Ministry, the SMPR, the SNNA, and Secretariat of Development for the Repatriated and Conational Refugees (SEDERREC). The Interior Ministry, which oversees the National Police, has an antitrafficking unit that assists with investigations and arrests. In October the unit opened a branch in Ciudad del Este with six officials tasked with receiving complaints and liaising with the Public Ministry. The government coordinated antitrafficking efforts through the Inter-Institutional Roundtable for the Prevention and Combat of Trafficking in Persons. The roundtable includes representatives from many government agencies, the IOM, the ILO, NGOs, and foreign missions. The TBA Antitrafficking in Persons Network assisted national antitrafficking agencies and NGOs to coordinate efforts in the TBA with their counterparts in Argentina and Brazil.

There were reports that public officials, including political figures, border guards, police, prosecutors, judges, and others, participated in, facilitated, or condoned human trafficking. Officials reportedly accepted bribes directly or indirectly to facilitate trafficking in persons. However, prosecutors and the police did not investigate or prosecute public officials allegedly involved in trafficking, nor did they remove them. Inadequate political will and financial and technical resources constrained the government's ability to combat trafficking.

The SEDERREC repatriated seven trafficking victims to the country. The SMPR and SNNA helped victims return to their families. The SNNA placed some child and adolescent victims in foster homes and referred others to shelters or foster homes and women to the women's shelter for trafficking victims. The government did not follow up with victims once they were repatriated.

The government encouraged victims to file complaints against traffickers and assist in the investigation and prosecution of traffickers. However, many victims avoided the legal process for fear of potential retaliation by traffickers or social stigma.

On January 9, the Interior Ministry announced the creation of an interagency workgroup on trafficking and other issues. During the year the government's Antitrafficking Interinstitutional Roundtable conducted antitrafficking meetings and seminars in greater Asuncion, Caacupe, and Ciudad del Este. The government also worked with international organizations such as the IOM, the ILO, and UNICEF to publish reports on trafficking and labor abuses.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services. The law does not mandate accessibility for persons with disabilities, and most of the country's buildings were inaccessible. Many persons with disabilities faced significant discrimination in employment; others were unable to seek employment because of a lack of accessible public transportation. The Ministry of Education estimated that at least half of all children with disabilities did not attend school because public buses could not accommodate them.

The law requires that persons with disabilities fill 5 percent of all public sector jobs. However, they were less than 1 percent of all public sector employees. On December 18, the Secretariat for Personnel Management adopted regulations to implement the disability hiring law.

In February the Directorate General of Inclusive Education opened the country's first school for the blind.

On June 10, the Secretariat for Personnel Management created a director general for policies of equality and inclusion. The two-person directorate works to achieve equal access to government jobs for all citizens.

*Indigenous People.*—The law provides indigenous people the right to participate in the economic, social, political, and cultural life of the country. However, the government did not effectively protect indigenous civil and political rights. Discrimination and lack of access to education, health care, shelter, and sufficient land hindered indigenous groups' ability to progress economically and maintain their cultural identity. The law protecting the property interests of indigenous people was not respected in practice.

A June 2008 census reported an indigenous population of approximately 108,000. The census estimated that 39 percent of the indigenous population over age 15 was illiterate, approximately 48 percent was unemployed, and 88 percent lacked health insurance. According to the General Directorate of Statistics, Surveys and Censuses, the average monthly income of the indigenous population in 2008 was 778,000 guaranies (\$167), approximately half the minimum wage and 65 percent that of the nonindigenous population. In December the national police academy opened 22 slots to be filled by indigenous recruits.

The INDI, Public Ministry, and Ombudsman's Office are responsible for protecting and promoting indigenous rights. However, the INDI frequently lacked funding to purchase land on behalf of the indigenous and required indigenous persons to register for land at its office in Asuncion. Indigenous workers engaged as laborers on ranches earned low wages, worked long hours, were paid infrequently or not at all, and lacked benefits. This situation was particularly severe for indigenous persons engaged as laborers on ranches and estates in the Chaco region, where there were reports of forced labor (see section 7.c.).

The law authorizes indigenous people to determine how to use their land, leading many of them to transfer or rent their land to nonindigenous persons, some of whom illegally harvested fish or deforested indigenous lands through cultivation. There were insufficient police and judicial protections from encroachments on indigenous lands.

In March Amnesty International reported that the Yakye Axa and Sawhoyamaxa indigenous communities were living with irregular water and food supplies and inadequate medical care, despite the 2005 and 2006 Inter-American Court of Human Rights rulings that ordered the government to provide the communities with basic services until it returns their traditional lands (see section 1.e.).

On August 13, the IACHR referred the case submitted by the Xakmok Kasek indigenous community to the Inter-American Court of Human Rights for trial. The petitioners charged that the government's failure to provide a satisfactory resolution to the community's land claims affected their access to land and aggravated their vulnerability in terms of food security and healthcare. The case remained pending at year's end.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There was societal discrimination based on sexual orientation. The Public Ministry is responsible for investigating discrimination cases; however, government agents often condoned such discrimination.

The crime of having sex with a minor between the ages of 14 and 16 is penalized differently, depending on the genders of the victim and perpetrator. Same-gender perpetrators are subject to up to two years in prison; the maximum penalty for opposite-gender perpetrators is a fine.

Several LGBT rights organizations operated during the year without governmental interference, including Paragay, Aireana, and Panambi. On July 11, these organizations conducted a gay pride march. The government issued the required permits and provided sufficient security for the march.

There were no developments regarding the July 2008 attacks on and killings of transgender persons Lupita, Laura, and Gaby. The cases remained pending at year's end.

There are no laws explicitly prohibiting discrimination against LGBT individuals in employment, housing, statelessness, access to education, or health care. All types of discrimination occurred frequently. On December 10, the Secretariat for Personnel Management enacted policies applying to administrative civil service jobs that prohibit discrimination by government employees on the basis of sexual orientation or gender identity.

*Other Societal Violence or Discrimination.*—CODEHUPY noted that individuals with HIV/AIDS faced discrimination in health care, education, and employment as well as social intimidation.

On December 1, Congress passed legislation expanding the government's role in providing support and preventing the spread of HIV. The law prohibits preemployment HIV tests and expands privacy protections for those carrying the disease.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law allows both private and public sector workers (with the exception of the armed forces and the police) to form and join unions. The law allows unions to conduct legitimate activities without government interference and contains provisions that protect fundamental worker rights. Although the government did not always enforce these provisions, workers exercised these rights in practice. Approximately 317,000 persons (11 percent of the workforce) were members of more than 350 labor unions affiliated with six major labor umbrella organizations. Most workers, including farmers, ranchers, and informal sector employees, did not have suitable labor unions. Many of these workers were members of campesino movements.

There are no restrictions on the right to form or dissolve a union. All unions must register with the MJT. Although the official registration process can take more than a year, the MJT typically issued provisional registrations within weeks of application to allow new labor unions to operate.

The law provides for the right to strike, prohibits binding arbitration, and prohibits retribution against union organizers and strikers. However, the government failed to prevent retaliation by employers who took action against strikers and union leaders. The courts provided due process through mechanisms such as voluntary arbitration.

*b. The Right to Organize and Bargain Collectively.*—The law allows collective bargaining, and this provision generally was respected in practice. The government did not place restrictions on collective bargaining and did not require approval for collective agreements to be valid. According to the MJT, there were approximately 30 collective bargaining agreements in place, covering approximately 10 percent of private sector employees and 60 percent of public sector employees.

Although the law prohibits antiunion discrimination, discrimination occurred in practice. Some union organizers experienced harassment and were fired for union activities. Some workers allegedly chose not to protest due to fear of reprisal or anticipation of government inaction.

There are no export processing zones. Factories (maquiladoras) that assemble imported parts for reexport to Mercosur are subject to all labor laws.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 6, trafficking in persons).

In May the UN Permanent Forum on Indigenous Issues reported allegations of debt labor on the estates and ranches of the Chaco region. Receiving little to no wages, some indigenous workers allegedly contracted debts with their employers, who advanced them pay to meet the cost of food, clothes, as well as the cost of sending their children to school. This situation was severe for women in domestic service, who were reportedly offered no compensation for their work and faced abuse. Investigators from the MJT were unable to substantiate claims made by the UN; however, they did not deny that such conditions could exist.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace. However, the government did not effectively enforce these laws. Child labor was a problem, particularly in brick and lime manufacturing, domestic service, and agricultural sectors.

The law prohibits work by children under age 14. The law permits minors between 14 and 15 years of age to work, with parental authorization, up to four hours per day in nonhazardous working conditions. Minors between 16 and 17 are permitted to work up to six hours per day in nonhazardous working conditions.

A 2007 ILO study reported that 970,000 (53 percent) of children between the ages of five and 17 worked more than one hour per day, and 862,000 worked at least 14 hours per week. Children, primarily boys, worked in manufacturing and agricultural sectors (including cotton, beans, soy, sesame, wheat, peanuts, and stevia production) and in the hotel, restaurant, and transportation industries. Children were also found working as vendors in markets. An estimated 60,000 children, primarily girls, worked as criadas (child domestic servants) and received no pay. In exchange for work, employers promised the child domestic servants room, board, and financial support for school. However, they were sometimes subject to sexual exploitation and often lacked access to education.

In addition to prostitution and domestic servitude, the worst forms of child labor occurred where malnourished, abused, or neglected children worked in unhealthy and hazardous conditions selling goods or services on the street, working in factories, or harvesting crops. Slavery and similar practices occurred, particularly in prostitution and domestic servitude. Parents and guardians reportedly sold their children for the purpose of forced labor, and children were used, procured, and of-

ferred to third parties for illicit activities. Some children were found working as drug smugglers along the border with Brazil.

The MJT is responsible for enforcing child labor laws, and the Public Ministry prosecuted violators. The CONAETI worked to eliminate exploitative child labor by increasing awareness, improving legal protections and public policy, and implementing monitoring systems; however, resource constraints limited the effectiveness of these efforts.

The SNNA administered "Programa Abrazo," and the Secretariat for Social Action administered "Tekopora" that paid parents of street children and parents in some rural areas a monthly stipend to send their children to school. The SNNA's "Operacion Verano" brought children of street workers into shelters when school was not in session. The Ministry of Education and Culture utilized the ILO's "Scream" child labor intervention campaign in six departments to train and assist educators in identifying child laborers and protecting them from exploitation. The government also participated in several regional projects to eliminate exploitative child labor.

*e. Acceptable Conditions of Work.*—The mandatory national minimum wage, established by the MJT, was approximately 1.4 million guaranies (\$300) per month, sufficient to maintain a minimally adequate standard of living for a worker and family. The minimum salary is adjusted by presidential decree whenever annual inflation exceeds 10 percent; the increase is determined in an opaque manner. However, the ministry did not enforce the minimum wage and estimated that 50 percent of government workers and 48 percent of private-sector workers earned less than the minimum wage.

The law provides for a standard legal workweek of 48 hours (42 hours for night work), with one day of rest. The law also allows an annual bonus of one month's salary and a minimum of 12 and a maximum of 30 vacation days per year, depending on years of service. The law requires overtime payment for hours in excess of the standard; however, many employers violated these provisions. There are no prohibitions or exceptions on excessive compulsory overtime.

The law sets occupational health and safety standards stipulating conditions of safety, hygiene, and comfort. The government did not allocate sufficient resources to enable the MJT and the Ministry of Health to enforce these provisions effectively. Workers have the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment, but authorities did not effectively enforce this right.

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## PERU

Peru is a multiparty republic with a population estimated at 29.5 million. In 2006 Alan Garcia of the Popular Revolutionary Party Alliance (APRA) won the presidency in elections that were generally free and fair. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, the following human rights problems were reported: abuse of detainees and inmates by police and prison security forces; harsh prison conditions; lengthy pretrial detention and inordinate trial delays; pressure on the media by local authorities; corruption; harassment of some civil society groups; violence and discrimination against women; violence against children, including sexual abuse; trafficking in persons; discrimination against indigenous communities, ethnic minorities, and gay and lesbian persons; failure to apply or enforce labor laws; and child labor in the informal sector.

The terrorist organization Shining Path (Sendero Luminoso), linked to narcotics trafficking, was responsible for killings and other human rights abuses.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, in episodes of social unrest, protesters and security forces were killed.

On June 5, clashes between police and indigenous protesters in and around Bagua, Amazonas, resulted in the deaths of 10 civilians and 24 police officers (see section 6, Indigenous People).

On September 23, security forces in Bolson Cuchara, Huanuco, protecting Peruvian Coca Eradication Agency workers shot four persons attempting to impede eradication efforts, one of whom subsequently died of the wounds. On September 28,

a person protecting a drug-making facility (coca maceration pit) was killed after firing at police.

A prosecutor's investigation into the September 2008 killings of four persons and the disappearance of two children during an antiterrorist operation by security forces in the Rio Seco area of the Valle de Apurimac y Ene region (VRAE) continued at year's end.

In September court proceedings began against police officer Carlos Alberto Rodriguez Huamani for allegedly killing two protesters during a February 2008 agrarian strike in Ayachucho.

There were no developments regarding the 2007 Public Ministry investigation of 10 police officers for the death of one inmate and the beating of another at a police station in Jesus Maria.

A change of judges in the Third Special Penal Superior Court interrupted oral proceedings against jailed former intelligence service director Vladimiro Montesinos, former armed services chief General Nicolas Hermoza, Colonel Roberto Huaman, and Colonel Jesus Zamudio Montesinos for alleged extrajudicial killings following the 1997 rescue of 74 hostages at the Japanese ambassador's residence. Proceedings were scheduled to resume after the court is reconstituted.

During the year a court tried and convicted former president Alberto Fujimori for authorizing the killings in 1991 at Barrios Altos and in 1992 at La Cantuta (25 years); embezzling state funds (7.5 years); ordering illegal wiretapping (six years); and bribing members of congress and illegally purchasing media outlets to support government initiatives. Fujimori remained in prison concurrently serving these sentences and an earlier six-year sentence for ordering an illegal search.

On April 27, the National Penal Court dropped charges against Ollanta Humala, a candidate in the 2006 presidential elections, in connection with killings in 1992 at the Madre Mia military base.

Juan Manuel Rivera-Rondon, implicated in the 1985 massacre of 69 villagers during a military raid in the village of Accomarca, remained in custody while on trial in the Third Supraprovincial Court. However, Telmo Ricardo Hurtado Hurtado, also implicated in the massacre, remained in a foreign country pending the outcome of extradition proceedings.

At year's end the Public Ministry continued investigating a mass grave of unknown date, discovered in 2006 in Cusco. The grave contained the remains of 80 bodies. The government's Institute of Legal Medicine awaited DNA results to help identify 25 of the exhumed bodies.

The Peruvian Forensic Anthropology Team (EPAF) identified the remains of 28 of the 92 victims found in the clandestine mass grave in the village of Putis in the department of Ayacucho. At an August 27 public ceremony, the Ayacucho Province governor, Eduardo Morales Galvez, refused to lower the national flag as civil society groups formally delivered to family members the coffins of 92 of the victims of the military massacre at Putis in 1984. Indigenous rights groups asserted that the governor's actions reflected unwillingness to recognize crimes committed during the country's internal armed conflict.

In December the EPAF analyzed 37 bodies found in a clandestine mass grave in Pucayacu, Ayacucho, and awaited the results.

During the year narcotics traffickers and members of the Shining Path terrorist organization killed 25 police officers, 51 soldiers, and an undetermined number of civilians. Between January and December, Shining Path conducted 136 terrorist acts in remote coca-growing areas. There were credible reports that women and children participated in Shining Path operations, in an attempt to thwart security force responses or to induce reactions that would result in allegations of serious human rights abuses against these forces.

On April 9, Shining Path terrorists ambushed two military patrols near the town of Sanabamba in the VRAE; 14 soldiers died in the attack. On November 5, alleged narcotics terrorists in the VRAE (Palma Pampa) kidnapped, tortured, and killed a driver for a transportation company used by the Inforegion press agency.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year, and there were no known developments in the 2008 disappearances of two persons in the VRAE where government forces were operating.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices. Although there were no allegations of systematic torture, there were reports that security officials used excessive force. Authorities seldom punished those who committed abuses.

Allegations of abuse most often arose immediately following an arrest, when families were prohibited from visiting suspects and when attorneys had limited access to detainees. In some cases police and security forces allegedly threatened or har-

assed victims, their relatives, and witnesses to prevent them from filing charges of human rights violations. According to the nongovernmental Human Rights Commission (COMISEDH), some victims were reluctant to pursue judicial proceedings for fear that members of the security forces allegedly involved in abuses would be released without being charged. COMISEDH reported 30 cases of aggravated torture by security forces reported to provincial prosecutors.

In April the 2008 case of Luis Alberto Rojas Marin, whom police officers reportedly raped, was presented to the Inter-American Human Rights Commission (see section 6).

*Prison and Detention Center Conditions.*—Prison conditions were harsh for the 44,800 inmates, of whom 2,794 were women. The National Penitentiary Institute (INPE) operated 56 of the country's 71 active prisons, and the National Police of Peru (PNP) has jurisdiction over the rest. Prisoners with money had access to cell phones, illegal drugs, and meals prepared outside the prison. Conditions were poor to extremely harsh in facilities for prisoners who lacked funds. Overcrowding, poor sanitation, and inadequate nutrition and health care were serious problems. Inmates had intermittent access to running water, bathing facilities were inadequate, kitchen facilities were unhygienic, and prisoners slept in hallways and common areas for lack of cell space. Tuberculosis and HIV/AIDS reportedly remained at near-epidemic levels. The San Juan de Lurigancho men's prison held 9,874 prisoners in a facility designed for 3,204.

Prisons for women were also overcrowded and marked by conditions similar to those in prisons for men. Although INPE opened a new facility for women in December 2008, prisoners complained about the dormitory-style sleeping quarters, a single room for the 67 inmates.

Conditions were especially harsh in maximum-security facilities located at high altitudes. The high-security prison in the jungle area of Iquitos was in poor condition and was under renovation. During the year the PNP transferred responsibility for operating the facility to INPE.

Prison guards and fellow inmates reportedly abused prisoners. There were deaths of inmates in prisons, most attributed to fellow inmates, but some were due to negligence by guards. Guards received little or no training or supervision. Corruption was a serious problem, and some guards cooperated with criminal bosses who oversaw the smuggling of guns and drugs into prisons.

There were no known developments regarding the 2007 killing of an inmate at Miguel Castro Castro Prison.

By December authorities had sentenced only 17,297 of the 44,800 persons held in the country's detention facilities. Authorities held detainees temporarily in pretrial detention centers located at police stations, judiciary buildings, and the Ministry of Justice. In most cases authorities held pretrial detainees with convicted prisoners.

The government permitted prison visits by independent human rights observers. The International Committee of the Red Cross made 44 unannounced visits in accordance with its standard modalities to inmates in 27 prisons and detention centers.

*d. Arbitrary Arrest or Detention.*—The constitution, criminal code, and antiterrorist statutes prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The PNP, with an officer and enlisted force of approximately 97,294, was responsible for all areas of law enforcement and internal security and functioned under the authority of the Ministry of the Interior. The PNP's organizational structure comprises directorates that specialize in specific areas (such as kidnapping, counternarcotics, and counterterrorism) and local police units. Each department, province, city, and town has a PNP presence.

The armed forces, with approximately 114,000 personnel, are responsible for external security under the authority of the Ministry of Defense, but they also have limited domestic security responsibilities.

Observers noted that the PNP was undermanned and suffered from a lack of training and professionalism. Corruption and impunity remained problems. The Ministries of Interior and Defense employ internal mechanisms to investigate security force abuses. The Public Ministry conducts investigations, although access to evidence held by the Ministry of Defense is not always forthcoming. The Ombudsman is another mechanism, although it can only refer a case to the Public Ministry. There were also several reports of military corruption, impunity, and resistance to provide information on its personnel under investigation for human rights abuses committed during the country's internal armed conflict. Security forces sought to strengthen accountability with human rights training and revision of disciplinary procedures but were doing so very slowly.

The PNP is charged with witness protection but lacked resources to provide training for officers, conceal identities, or offer logistical support to witnesses. Officers assigned to witness protection cases often brought witnesses into their homes to live.

*Arrest Procedures and Treatment While in Detention.*—The law permits police to detain persons for investigative purposes. Persons were apprehended openly. The law requires a written judicial warrant based on sufficient evidence for an arrest unless the perpetrator of a crime is apprehended in the act. Only judges may authorize detentions. Authorities are required to arraign arrested persons within 24 hours, except in cases of terrorism, drug trafficking, or espionage, in which arraignment must take place within 30 days. In remote areas arraignment must take place as soon as practicable. Military authorities must turn over persons they detain to the police within 24 hours. The law requires police to file a report with the Public Ministry within 24 hours after an arrest. The Public Ministry, in turn, must issue its own assessment of the legality of the police action in the arrest, and authorities respected this right effectively in practice. A law effective on December 14 permits security forces to recover the bodies of fallen soldiers and police without the presence of the Public Ministry and civilian authorities only with the ministry's permission. The law addresses concerns particularly in the emergency zones.

The time between an arrest and an appearance before a judge averaged 20 hours. Judges have 24 hours to decide whether to release a suspect or continue detention. A functioning bail system exists, but many poor defendants lacked the means to post bail. By law detainees are allowed access to a lawyer and to family members. Police may detain suspected terrorists incommunicado for 10 days. The Ministry of Justice provided indigent persons with access to an attorney at no cost, although these attorneys were often poorly trained. Several nongovernmental organizations (NGOs) worked with the ministry to improve their skills.

Lengthy pretrial detention was a problem. According to a study prepared by the Technical Secretary of the Special Commission for Integral Reform of the Justice System, 61 percent of those in prison were awaiting trial, the majority for between one and two years. The law requires release of prisoners who have been held more than 18 months without being sentenced; the period is extended to 36 months in complex cases.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the government generally respected this provision in practice. NGOs and other analysts complained that the judiciary was politicized and corrupt (see section 4).

The three-tier court structure consists of lower courts, superior courts, and a Supreme Court of Justice consisting of 30 judges. Supranational courts execute judgments made by courts, such as the Inter-American Court of Human Rights, outside the domestic judicial system. The seven-person Constitutional Tribunal operates independently of the judicial branch. The independent and autonomous National Judicial Council (CNM) appoints, disciplines, and evaluates all judges and prosecutors who have served in their position for at least seven years (excluding those chosen by popular election). Lack of certification from the CNM permanently disqualifies a judge or prosecutor.

The military justice system provides the same rights as civilian courts. Under the military justice system, judges in the lower courts must pass judgment and sentence within 10 days of the opening of trial. Defendants can appeal convictions to the Superior Military Council, which has 10 days to issue a decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue a ruling within five days. At the Superior Military Council and Supreme Council levels, a significant number of judges were active-duty officers with little or no professional legal training.

The National Penal Court, in accordance with decisions of both the Inter-American Court of Human Rights and the Constitutional Tribunal, continued to retry defendants previously convicted by military tribunals. The courts found eight persons guilty and absolved 14 others in terrorism cases. Approximately 38 human rights violations cases remained pending at year's end.

The National Penal Court continued investigating cases involving allegations of human rights abuses by security forces during the war against Shining Path and the Tupac Amaru Revolutionary Movement in the 1980s and 1990s. Several cases referred by the Truth and Reconciliation Commission remained pending with the court, but only a few involved active investigations.

*Trial Procedures.*—The justice system is based on the Napoleonic Code. The prosecutor investigates cases and submits an opinion to a first instance judge, who determines if sufficient evidence exists to open legal proceedings. The judge conducts

an investigation, evaluates facts, determines guilt or innocence, and issues a sentence. All defendants are presumed innocent; they have the right to be present at trial, to call witnesses, and to be represented by counsel, although in practice the public defender system often failed to provide indigent defendants with qualified attorneys. The Ministry of Justice provided indigent persons with access to an attorney at no cost, although these attorneys were often poorly trained. Defendants and their attorneys generally have access to government-held evidence related to their cases for recent crimes, except in cases related to the human rights abuses of the period 1980-2000 and particularly with respect to those involving the Ministry of Defense. Although citizens have the right to be tried in their own language, language services for non-Spanish speakers, who comprise a substantial number of persons in the highlands and Amazon regions, were sometimes unavailable. Defendants may appeal verdicts to the superior court and then to the Supreme Court of Justice. The Constitutional Court decides cases involving such issues as habeas corpus.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The country has an independent judiciary that enables citizens to bring lawsuits for violations of their rights; however, court cases often continued for years, making it difficult for some plaintiffs, particularly those of limited economic means, to pursue legal redress. Press reports, NGOs, and others alleged that judges frequently were subject to corruption or influence by powerful outside actors.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the government generally respected these prohibitions in practice. There were reports, however, that authorities sometimes entered private dwellings before obtaining a warrant.

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press. Although the government generally respected these rights in practice, some civil society, media, and political opposition groups expressed concern about whether citizens could criticize the government. There were instances of harassment of the press, including attacks against and illegal arrests of journalists, by provincial authorities, the police, and nonstate actors, such as coca growers.

The independent media was active and expressed a variety of views. All media outlets were privately owned except for one government-owned daily newspaper, two television networks, and one radio station.

A number of journalists and media outlets experienced intimidation. At year's end the National Journalists Association reported 180 cases of harassment, and the Institute of Press and Society issued 87 alerts. Most incidents took the form of violent attacks, threats, judicial pressure, illegal arrests, and theft of broadcasting equipment and journalists' files. Some cases were attributable to a lack of an effective government presence in some parts of the country. Through December civil (not military or police) authorities reportedly harassed reporters in approximately 54 incidents.

A March report issued by a congressional multiparty commission headed by Congressman Walter Menchola stated that a large number of illegal radio stations in the country received foreign financing. In light of the large number of illegal radio stations—some analysts estimated at more than 2,000—the government had difficulty maintaining appropriate control over their licensing and broadcast operations. The congressional commission found that “informal radio stations in the southern region of the country incite violence and public disorder.”

In June government officials accused Radio Voz de Bagua of inciting the June 5 violence in Bagua, Amazonas, that resulted in the deaths of 24 police officers and 10 civilians (see section 6, Indigenous People). Government officials and multiple witnesses accused the local radio outlet of spreading false information, fanning animosities, and inciting violence. The government subsequently stripped Radio Voz de Bagua's operating license, charging that the radio violated administrative laws and procedures. Some NGOs and press analysts asserted that the government had singled out the station for political reasons, although many other radio stations were also previously sanctioned for reasons stated in previous paragraph. A Press and Society Institute appeal to the judiciary to restore Radio Voz de Bagua's license was pending at year's end.

On February 5, journalist Julio Vazquez Calle received threatening phone calls related to the release of photographs depicting the 2005 kidnap and torture of 28 villagers at several of the Majaz mining company installations in the Piura and



Cajamarca regions; police officers and company security guards were implicated in the abuses.

On February 24, regional government workers insulted and beat Marco Sanchez and Reynaldo Poma, two journalists employed by Radio Uno station in Tacna, after they denounced corruption in a technical institute managed by the regional government.

On March 4, the Quillabamba (Cusco) police arrested reporter Roberto Chalco after he denounced an increase in crimes and criticized the police.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups engaged in the free expression of views via the Internet, including by e-mail. The chief impediment to Internet access was a lack of infrastructure. The International Telecommunication Union reported that there were 25 users of the Internet per 100 inhabitants.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for the right of freedom of assembly, and the government generally respected this right in practice. The government maintained emergency zones and suspended the freedom of assembly and other freedoms in coca-growing areas, where Shining Path operated. The emergency zones were located in several provinces in Ayacucho, Huancavelica, Cusco, and Junin departments. The law does not require a permit for public demonstrations, but organizers must inform the Interior Ministry's political authority (prefect) about the type of demonstration and its location. Demonstrations may be prohibited for reasons of public safety or health. The police used tear gas and occasional force to disperse protesters in various demonstrations. Although most demonstrations were peaceful, protests in some areas turned violent (see section 6, Indigenous People).

*Freedom of Association.*—The law provides for freedom of association, and the government generally respected this right in practice.

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

The constitution establishes separation of church and state, but certain laws favor the Roman Catholic Church. The Catholic Church and clergy received preferential treatment in education, tax benefits, and other areas. A special registry of non-Catholic religious groups allows non-Catholic churches to receive state benefits similar to those received by the Catholic Church; however, some evangelical church leaders complained about the requirement to operate for seven years before being added to the registry. The law provides that the military may hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion for military personnel. The Ministry of Education requires that Catholic religion courses be taught in all public and private primary and secondary schools; however, many non-Catholic private schools were granted exemptions. Additionally, parents may request an exemption by writing to the school principal.

*Societal Abuses and Discrimination.*—There were no reports of societal abuses, discrimination, or anti-Semitic acts. There were approximately 4,000 members of the Jewish community.

For a more detailed discussion, see the 2009 International Religious Freedom Report at <http://www.state.gov/j/drl/rls/irf/>.

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for the right of free movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government maintained emergency zones where it restricted freedom of movement in several provinces (see section 2.b.).

The government stated that it implemented the state of emergency to maintain public peace and restore internal order. NGOs commented that the government failed to ensure that military personnel operating in the emergency zones did not use excessive force against civilians.

Narcotics traffickers and Shining Path at times interrupted the free movement of persons by establishing roadblocks in sections of the Upper Huallaga Valley and the VRAE. Occasionally protesters blocked roads to draw public attention to grievances.

The law prohibits forced internal and external exile, and the government did not use it.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its law provides for the granting of asylum or refugee status, and the government has established a system for pro-

viding protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government gave political asylum to several high-profile Venezuelan political figures, including former presidential candidate and Zulia state governor Manuel Rosales and several former Bolivian government ministers.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and recognized the Catholic Migration Commission (CMC) as the official provider of technical assistance to refugees. The CMC also advised citizens who feared persecution and sought asylum abroad. The government provided protection to refugees on a renewable, year-to-year basis, in accordance with CMC recommendations. By June UNHCR reported 2,503 pending refugee requests.

*Stateless Persons.*—Citizenship is derived either by one's birth within the territory or from one's parents' citizenship. If overseas, parents must register their child's birth by age 18 in order for the child to obtain citizenship. The law provides all citizens with the right to a name, nationality, and legal recognition; it also provides for other civil, political, economic, and social rights. More than one million citizens, however, lacked identity documents and could not fully exercise these rights. An estimated 15 percent of children under one year of age were unregistered. Poor indigenous women and children in rural areas were disproportionately represented among those lacking identity documents. Undocumented citizens faced social and political marginalization and barriers in accessing government services, including running for public office or holding title to land.

Obtaining a national identity document requires a birth certificate, but many births in rural areas occurred at home. In an effort to lower infant mortality rates, the Ministry of Health fined women who did not give birth in clinics or hospitals. Poor women often could not pay the fines and could not register their children retroactively.

The ombudsman investigated complaints about the unlawful practice of charging fees to issue identity documents and facilitated refunds when such fees had been paid. The ombudsman also helped citizens obtain documents quickly.

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

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

*Elections and Political Participation.*—In 2006 Alan Garcia Perez assumed the presidency after two rounds of presidential elections that were considered free and fair. In the 2006 general elections, the president's APRA party won 36 seats (second to the Union for Peru Party's 45 seats) in the 120-seat unicameral Congress.

Nationwide municipal elections were held in 2006. Domestic and international observer delegations declared the elections to be fair and transparent, despite a few localized incidents of violence.

Political parties operated without restriction or outside interference. Registration of a new political party requires the signature of 1 percent of the voters who participated in the past election.

Presidential and congressional terms are five years, and the law prohibits the immediate reelection of a president. Groups that advocate the violent overthrow of government were barred from participating in the political process.

There were 32 women in the 120-member Congress. Three of 16 cabinet members were women, and there were four women on the Supreme Court. The Law on Political Parties mandates that at least 30 percent of candidates on the party lists be women. While parties abided by the legislation, many women candidates were included at the bottom of the party lists, reducing their likelihood of winning seats on regional and municipal councils.

There were 23 Quechua and two Aymara speakers in Congress. Two members of Congress identified themselves as Afro-Peruvians.

### *Section 4. Official Corruption and Government Transparency*

The law criminalizes official corruption; however, the government did not implement the law effectively. World Bank Indicators reflected that government corruption was a serious problem, and there was a widespread public perception that corruption was pervasive in all branches of government.

Numerous members of Congress were involved in scandals during the year, but most cases were deemed ethics violations and handled through internal congressional investigations and discipline. The judiciary investigated a few of the cases,

but no arrests were made. One such case concerned Alas Peruanas, a private university involved in multiple active judicial proceedings, which had financed controversial trips for several members of Congress, including some on the Education Committee. Several judges were also implicated in the scandal, and at year's end two Supreme Court justices were recommended for a disciplinary process by the National Council of Magistrates and faced possible dismissal as a result.

The government's major corruption-related scandal continued to revolve around wiretaps. In October 2008 unknown actors publicly released audiotapes of conversations suggesting government kickbacks associated with oil concessions. Authorities arrested a former minister (under a previous government) and Alberto Quimper Herrera of Perupetro in connection with the scandal, which was dubbed "Petroaudios." At year's end Leon remained in jail, Quimper was under house arrest, and investigations and trial proceedings continued.

On January 8, authorities arrested several individuals (including former navy intelligence officers) for conducting illegal wiretapping in connection with the Petroaudios audiotape release and began investigating the private company, Business Track, where the individuals were employed. The investigation revealed that Business Track had illegally wire-tapped several members of Congress, judges, and other high-profile individuals. But as the case unfolded, there was a perception that the judiciary sought to limit the scope of its investigation in the face of politically sensitive and potentially incriminating information, and the Supreme Court limited a Congressional investigating committee's access to the information it had under review. Congressional committee and judiciary investigations continued at year's end.

In April the Supreme Court's three-judge Permanent Criminal Chamber convicted former president Alberto Fujimori on four separate corruption charges: embezzlement, secretly purchasing a television station and newspaper, bribing members of Congress, and illegal eavesdropping. The sentences imposed were to be served concurrently with the 25-year sentence for the former president's human rights conviction.

Most public officials are subject to financial disclosure laws and must submit personal financial information to the General Comptroller's office prior to taking office and periodically thereafter.

The law provides for public access to government information, and most ministries and central offices provided information on Web sites. Implementation of the law was incomplete, particularly in rural areas, where few citizens exercised or understood their right to information. The human rights ombudsman encouraged regional governments to adopt more transparent practices for releasing information and monitored the compliance of regional governments with a law that requires public hearings at least twice a year.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

Some NGOs reported that the Peruvian Agency for International Cooperation, the governing body of international technical cooperation, audited their records repeatedly, which they believed constituted harassment.

According to COMISEDH, military commanders continued to deny human rights observers access to military facilities. To obtain information about activities in those areas, NGOs had to work through the Office of the Ombudsman.

The Council for Reparations, a government entity, continued assisting persons who suffered during the 1980-2000 conflict with Shining Path. The council compiled a registry of victims, both individuals and communities, which included 62,909 individuals and 5,409 communities eligible for reparations benefits. A number of victims and family members lacking proper identity documents had difficulties registering for eligibility for the reparations program.

The government cooperated with international governmental organizations and permitted visits by UN representatives. There were several visits from UN representatives, including the special rapporteur for indigenous people in June and the regional director of the UN Office of the High Commissioner for Human Rights in December. On July 20, the special rapporteur issued a report and formal recommendations on observations of the situation of indigenous populations in the Amazon and the events of the June 5 conflict in Bagua, Amazonas. The Joint UN Program on HIV/AIDS (UNAIDS) also visited to assess the efficacy, and effectiveness, and outcomes of UNAIDS programs.

The Office of the Human Rights Ombudsman operated without government or party interference and was considered effective, although it lacked adequate resources. During the year the office issued eight reports on such issues as mental health and human rights, strengthening the National Police, and migration. The government took account of recommendations in these reports in differing degrees.

The Congress has several committees including a Human Rights Committee as well as Special Commission for Persons with Disabilities; however, they had limited policy impact.

On December 16, the president and other dignitaries broke ground on the Museum of the Memory, dedicated to the victims of the internal conflict from 1980-2000. The government overcame early reluctance in supporting the museum, which many in the security forces viewed as a tribute to the terrorists and a condemnation of police and military sacrifices in halting the violence.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, but enforcement lagged and discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persisted.

*Women.*—The law criminalizes rape, including spousal rape, but enforcement was not effective. There were no reports on the numbers of abusers prosecuted, convicted, or punished.

The law prohibits domestic violence, and penalties range from one month to six years in prison. The law authorizes judges and prosecutors to prevent the convicted spouse or parent from returning to the family's home, and it authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence. It also allows health professionals to document injuries. The law requires police investigation of domestic violence to take place within five days and obliges authorities to extend protection to women and children who are victims of domestic violence.

Nonetheless, violence against women and girls, including rape, spousal abuse, and sexual, physical, and mental abuse remained a problem. Insensitivity on the part of law enforcement and judicial authorities toward female victims contributed to a societal attitude of permissiveness toward abuse. The Ministry of Women and Social Development (MIMDES) reported that there were 123 cases of femicide and attempted murder (93 murders and 30 attempts).

Many domestic abuse cases went unreported, and NGOs stated that the majority of reported cases did not result in formal charges because of fear of retaliation or the expense of filing a complaint. The protections offered were limited because of legal delays, ambiguities in the law, and the shortage of shelters for victims.

MIMDES operated the Women's Emergency Program, which included 89 centers that brought together police, prosecutors, counselors, and public welfare agents to help victims of domestic abuse. It also sought to address the legal, psychological, social, and medical problems facing victims of domestic violence. These centers handled 31,630 cases through September or an average of 160 cases a day. In August the ombudsman issued a report on the centers, which highlighted challenges such as lack of qualified professionals in all sectors and the government decentralization process that also applies to the centers.

MIMDES also operated a toll-free hotline, which answered 16,136 calls or a monthly average of 1,345 of which 94 percent sought assistance regarding family disturbances.

MIMDES continued efforts to sensitize government employees and the citizenry to domestic violence, but the ombudsman asserted that police officers reacted indifferently to charges of domestic violence, despite legal requirements to investigate the complaints.

Prostitution is legal for women over 18 years of age if they register with municipal authorities and carry a health certificate. The vast majority of prostitutes worked in the informal sector, where they lacked health protection. NGOs reported that traffickers lured some underage women into prostitution. Penalties for pimps and clients of underage prostitutes range from four to eight years in prison. There was no information on the number of cases reported, prosecuted, or convicted.

Sexual harassment was a problem. The law defines sexual harassment as a labor rights violation subject to administrative punishment. Punishments differ depending on the professional situation in which the violation took place. Government enforcement was minimally effective.

Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination, depending on the population's access to education and to reproductive health information. Access to information on contraception, and skilled attendance at delivery

and in postpartum care were widely available in urban areas but not as available in the highlands and jungle. According to the World Health Organization, there are 410 maternal deaths per 100,000 live births per year. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

The law provides for equality between men and women and prohibits discrimination against women with regard to marriage, divorce, and property rights, and women from the upper and upper-middle classes assumed leadership roles in companies and government agencies. The law prohibits racial and sexual discrimination in employment or educational advertisements and the arbitrary dismissal of pregnant women; however, in practice, discrimination continued.

The law stipulates that women should receive equal pay for equal work. However, societal prejudice and discrimination led to disproportionate poverty and unemployment rates for women. On average, women were paid 46 percent less than men for comparable work; usually worked in less secure occupations as maids, in factories, or as street vendors; and were more likely to be illiterate due to lack of formal education.

*Children.*—Citizenship is derived either by one's birth within the territory or from one's parents' citizenship. There were problems with government registration of births (see section 2.d.). Although this did not cause denial of public services, it limited access to social welfare programs and public health services.

The constitution stipulates that primary and secondary education is free; however, citizens and NGOs asserted that it was not completely free in practice and that fees due to parents associations, administrative expenses, and costs of educational materials made access more difficult for lower-income families.

Violence and sexual abuse of children were serious problems. MIMDES reported 1,650 cases of violence or sexual abuse of children five years of age and under and 3,687 cases of abuse of children ages six to 11. Many abuse cases went unreported because societal norms viewed such abuse as a family problem that should be resolved privately. The Women's Emergency Program worked to help children who were victims of violence, receiving information through the children's rights and welfare protection offices.

MIMDES' Children's Bureau coordinated government policies and programs for children and adolescents. At the grassroots level, more than 1,300 children's rights and welfare protection offices resolved complaints ranging from physical and sexual abuse of children to abandonment and failure to pay child support. Provincial or district governments operated approximately 50 percent of these offices, while schools, churches, and NGOs ran the others. Law students staffed most of the units, particularly in rural districts. When these offices could not resolve disputes, officials usually referred cases to the local prosecutors' offices of the Public Ministry, whose adjudications were legally binding and had the same force as judgments entered by a court of law.

The government worked with other Southern Common Market (MERCOSUR) members to carry out the "Nino Sur" ("Southern Child") initiative to combat the commercial sexual exploitation of children.

The law prohibits child prostitution, penalizing perpetrators with five to 12 years in prison. The country was a destination for child sex tourism, with Cusco and Iquitos as the principal locations. Involvement in child sex tourism is punishable by two to eight years in prison.

Statutory rape law differentiates between rape, rape of a person in an unconscious situation or injury, rape of a disabled person, rape of a minor less than 14 years, rape of a minor resulting in injury, and rape if the individual has a position of authority. Penalties range from six years' to life imprisonment. The penalty for involvement in child pornography is four to eight years' imprisonment and fines.

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

The country was a source, transit point, and destination for trafficked persons. Internal trafficking was the major problem in the country. No authoritative estimates existed on the extent of international trafficking, but evidence indicated that persons were trafficked to Spain and particularly to Japan through organized criminal networks. There were reports that victims were trafficked into the country from Ecuador and Bolivia.

The government, NGOs, and international organizations reported that significant domestic trafficking occurred, particularly in districts located in the Andes or the Amazon jungle, to traffic underage girls into cities or mining areas for commercial sexual exploitation or for work as domestic servants. There were also reports of trafficking into the VRAE of victims who were forced to work in brothels and to service

members of the drug-trafficking organizations. Children, along with their families, were trafficked from Chile to Peru and Bolivia to work in agriculture.

The principal victims and groups at high risk for trafficking were children and young women from rural or poor urban areas, persons living in poverty, persons with disabilities, victims of domestic abuse, illiterate persons, and persons lacking birth certificates or other identification documents.

Traffickers' methods often combined emotional manipulation and coercion. Victims were recruited by friends or acquaintances and through newspaper and Internet advertisements or street posters offering employment. Local employment agencies recruited some victims by offering poor young women from rural areas relatively well-paid "restaurant work" in Lima, Cusco, major coastal cities, and abroad. NGOs reported that the principal traffickers were local crime groups, parents of victims, and informal networks involving acquaintances or extended family members. Traffickers usually transported their victims by road, while a smaller percentage traveled by air or river. The families of the victims wittingly or unwittingly facilitated the trafficking by trusting a "friend" or a distant relative who promised the victim a job.

The law provides penalties from eight to 15 years' imprisonment for those who move a person, either within the country or to an area outside the country, for the purposes of sexual exploitation (including prostitution, sexual slavery, or pornography). If the victim is under 18 years old, the punishment is 12 to 25 years' imprisonment. Laws prohibiting kidnapping, sexual abuse, and illegal employment of minors also were used to punish those who trafficked persons. The law was not effectively enforced.

The PNP's Trafficking Investigation Unit raided clandestine brothels, rescued a number of young women, and returned victims to their families. The raids resulted in few arrests for trafficking crimes. Authorities charged most persons with pimping and related crimes. The PNP's trafficking unit reported 138 trafficking cases of which 34 were forced labor and 103 for sex trafficking. The 181 reported victims included 155 women and 26 men.

In December 2008 a court sentenced Teobaldo Saavedra Chamba, the owner of a bar in Sullana, to 12 years' imprisonment for the sexual exploitation of minors.

On October 30, Lima's 45th Court acquitted Paulina Grajeda on charges of trafficking underage female victims from Iquitos to work in her establishments in Cusco. The prosecutor's appeal of the decision was pending at year's end.

There were no known developments, and none were expected, in the case of Segundo Yoel Merino Sanchez, arrested in December 2008 by authorities in Piura for exploitation of minors.

By year's end Carlos Arturo Yong Chong was in prison sentenced to 12 years' imprisonment for trafficking of minors, counterfeiting of documents, and illegal abortions.

The government coordinated with NGOs to protect and assist victims. One example is a Catholic order, the Sisters of Adoration, which operated three programs for underage female prostitutes: a live-in center for approximately 75 girls and 20 children of the victims in Callao and two drop-in centers in Lima and Chiclayo. All facilities offered medical attention, job training, and self-esteem workshops designed to keep underage girls from the streets. The government provided the building in Callao and paid for upkeep, utilities, and food.

The Ministry of Interior's Office of Human Rights maintained a toll-free trafficking hotline. The hotline staff received support from the International Organization for Migration, which assisted in informational campaigns and training government officials in trafficking issues. The Ministry of Foreign Affairs produced and distributed antitrafficking materials to domestic passport offices and overseas consular posts.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities and provides for their protection, care, rehabilitation, and security; mandates that public spaces be free of barriers and accessible to persons with disabilities; and provides for the appointment of a disability rights specialist in the ombudsman's office. However, the government devoted limited resources to enforcement and training, and many persons with physical disabilities remained economically and socially marginalized. The government made little effort to ensure access to public buildings. There were no interpreters for the deaf in government offices and no access to recordings or braille for the blind.

The government failed to enforce laws assigning the state responsibility for safeguarding and attending to persons with mental health problems in situations of social abandonment. The number of medical personnel in psychiatric institutions was insufficient; in some cases patients cared for each other. The NGOs Mental Dis-

ability Rights International and Association for Human Rights reported that the government did not protect adequately the rights of persons with mental illnesses, including inhuman treatment of institutionalized patients, discrimination in the provision of health and social services, and failure to ensure informed consent.

MIMDES' National Council of the Person with Disabilities (CONADIS) is responsible for protecting the rights of persons with disabilities. CONADIS continued to work with NGO Sense International to provide educational, vocational, and training services for meeting the needs of deaf and blind persons, foster increased public awareness, and integrate deaf and blind persons into society.

*National/Racial/Ethnic Minorities.*—The law provides all citizens equality before the law and forbids discrimination on the basis of race, national origin, or language.

The population includes large minorities of persons of Asian and African descent. Afro-Peruvians, who were among the poorest groups in the country, faced discrimination and social prejudice. Afro-Peruvians generally did not hold leadership positions in government, business, or the military. Few Afro-Peruvians served as officers in either the navy or the air force. Although the law prohibits mentioning race in job advertisements, NGOs alleged that employers often found ways to refuse Afro-Peruvians jobs or relegate them to low-paying service positions. Employers often required applicants to submit photos. The media often portrayed Afro-Peruvians as stereotypes.

In July several civil society organizations submitted an alternative report to the Committee on the Elimination of Racial Discrimination (CERD) on the state of racism in the country, as the government did not consult with them for the official report or hearings (see section 5). The NGOs asserted that the government has not adopted real and effective mechanisms at the national level to guarantee the rights of groups protected by the CERD convention.

On November 28, in an executive resolution published in *El Peruano*, the government formally apologized to the nation's Afro-descendant populations for abuse, exclusion, and discrimination perpetrated against them, from the colonial era until the present.

*Indigenous People.*—The law prohibits discrimination based on race and provides for the right of all citizens to speak their native language. While Spanish and Quechua are the official languages, the government also recognizes 49 other indigenous languages. The government did not provide sufficient resources to protect effectively the civil and political rights of indigenous persons.

Most indigenous persons and those with indigenous features faced societal discrimination and prejudice. They were often the victims of derogatory comments and subjected to illegal discrimination in restaurants and clubs.

Language barriers and inadequate infrastructure in indigenous communities impeded the full participation of indigenous persons in the political process. Many indigenous persons lacked identity documents and could not exercise basic rights.

The geographic isolation of highland and Amazon jungle communities contributed to their social, economic, and political marginalization. Child mortality rates were higher in indigenous areas, and only 20 percent of births took place in public health centers.

While the constitution recognizes that indigenous persons have the right to communal land ownership, indigenous groups often lacked legal title to demarcate the boundaries of their lands, making it difficult to resist encroachment by outsiders. By law local communities retain the right of unassignability to prevent the reassignment of indigenous land titles to nonindigenous tenants. However, some members of indigenous communities sold land to outsiders without the consent of the majority of their community. Mineral or other subsoil rights belong to the state, a situation that often caused conflict between mining interests and indigenous communities.

On June 5, security forces dispersed demonstrators who had been blocking roads in and around Bagua, Amazonas, for several months, demanding the repeal of certain legislative decrees. Indigenous community representatives argued that the decrees were unconstitutional because the government had failed to consult with the communities prior to their approval. Clashes between police and protesters left 10 civilians and 24 police officers dead and several injured. Following the conflict, the government participated in negotiations with indigenous community representatives and, on June 15, signed a 12-point agreement with indigenous leaders, which led to the repeal of two of the presidential decrees that sparked the protests. Four working groups established to address issues leading to these clashes completed their tasks in December. A December 21 report on the events in Bagua assigned blame broadly, including to the government and the indigenous community.

The constitution provides that all citizens have the right to use their own language before any authority by means of an interpreter. In Congress native speakers

of Quechua conducted some debate in Quechua (translators were available for non-Quechua speakers). The National Program of Mobilization for Literacy continued teaching basic literacy and mathematics to poor men and women throughout the country.

The National Institute of Development of Andean, Amazonian, and Afro-Peruvians (INDEPA) is a government entity with the mission to formulate and adopt national development policies, programs, and projects for Andean, Amazonian, and Afro-Peruvian communities. INDEPA's board includes four Andean, three Amazonian, and two Afro-Peruvian representatives elected by popular vote in their respective communities. INDEPA lacked a separate budget and was ineffective.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws prohibiting discrimination against persons based on sexual orientation; however, government authorities including the police, sometimes harassed and abused homosexual persons. There were cases of discrimination against persons based on sexual orientation.

The Ministry of the Interior's Handbook of Human Rights Applied to the Civil Police stipulates that police must respect human rights, especially of the most vulnerable groups, and refers explicitly to the human rights of lesbians, gays, and transvestites. Although discrimination based on sexual orientation was a problem as seen in the expulsion of a gay student from a police academy, on December 9, the Constitutional Tribunal ordered the student to be reinstated.

Promsex, an NGO and member of the Peruvian Network (Red Peruana TLGB) focused on gay, lesbian, bisexual, and transgender rights reported that there were no impediments to their operation or free association. They also lobbied Congress to pass a Hate Crimes Law, which was delivered to the Human Rights Committee of the Congress on October 23.

On January 29, a transgender woman, known as Techi, was kidnapped and tortured by members of a local neighborhood watch patrol in Tarapoto. In April local prosecutors presented the case to the Second Court of Tarapoto.

On April 14, the NGO Promsex and other NGOs sent the 2008 case of the rape of Luis Alberto Rojas Marin to the Inter-American Human Rights Commission; the commission rejected the petition on August 27.

Several gay pride marches occurred in Lima, including the Fifth Annual Festival of Sexual Diversity on January 11 and a lesbian march on October 13. By law organizers must inform the Ministry of Interior of intentions to hold a public gathering. There were no impediments or incidents for the festival, although there was a problem with police for the October march as they had not requested authorization.

There was no official or societal discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care although there were cases in each at year's end.

*Other Societal Violence or Discrimination.*—Persons with HIV/AIDS faced extensive discrimination and harassment.

The Ministry of Health executed policies to combat discrimination based on HIV/AIDS status, including a four-year strategic plan to prevent and control HIV/AIDS. Some of these policies enjoyed success, such as in treatment of HIV/AIDS, but observers noted that education and prevention programs needed strengthening.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right of association. Regulations allow workers to form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers are not required to seek authorization prior to forming a trade union, and employers cannot prevent employment because of union membership. Judges, prosecutors, and members of the police and military are not permitted to form or join unions. More than 70 percent of the 14 million-member labor force worked in the informal sector. The Ministry of Labor (MOL) reported that approximately 9.5 percent of the labor force was unionized.

Many businesses hired temporary or contract workers who were legally not permitted to participate in those firms' unions. Although the law forbids businesses from hiring temporary workers to perform core company work functions, employers circumvented these restrictions in a number of ways. In June 2008, however, the government enacted a law governing subcontracting that requires businesses to monitor their contractors and imposes liability on businesses for the actions of their contractors.

Workers in nontraditional export sectors (fishing, wood and paper, nonmetallic minerals, jewelry, textile, and agroindustry) have their associational rights limited by two regulations currently in force. Especially notable is Legislative Decree No. 728, which calls for nine different categories of employment contracts under which workers can be hired in response to particular circumstances. These types of con-



tracts include temporary, project, or seasonal contracts. Another decree allows employers to hire workers on a series of short-term contracts without requiring that the workers be made permanent.

The constitution provides for the right to strike with certain limitations. Unions in essential public services, as determined by the government, must provide a sufficient number of workers during a strike to maintain operations. The law bans government unions in essential public services from striking. It also requires strikers to notify the MOL before carrying out a job action, which is contrary to International Labor Organization (ILO) policy that this responsibility should rest with an independent body, especially in cases involving the public sector.

During the year the government declared legal seven out of 84 strikes. According to labor leaders, permission to strike was difficult to obtain, in part because the MOL feared harming the economy. The MOL justified its decisions in such cases by citing unions' failure to fulfill the legal requirements necessary to strike. The law allows unions to declare a strike in accordance with its own statutes; it also allows nonunion workers to declare a strike with a majority vote so long as the written act is notarized and announced at least five working days prior to a strike. The difference between a legal and an illegal strike to the worker is that there exists some recourse associated with the length allowed under the legal strike.

In spite of improvements in the laws that make it easier for workers to call a legal strike, employers continue to dismiss workers for exercising the right to strike. Drawn-out judicial processes and lack of enforcement following strike-related dismissals threaten to nullify improvements to the legal framework. A local NGO stated that 75 percent of strikes were based on lack of enforcement of decisions and not wage issues.

*b. The Right to Organize and Bargain Collectively.*—The law recognizes the right of public and private sector workers to organize and bargain collectively but specifies that this right must be exercised in harmony with broader social objectives. A union must represent at least 20 workers to become an official collective bargaining agent. Union representatives have the right to participate in collective bargaining negotiations and establish negotiating timetables.

Although a conciliation and arbitration system exists, union officials complained that the high cost of arbitration made it difficult to use. Also, many refused to be bound to the decisions and appealed to the constitutional court.

The law prohibits antiunion discrimination and other forms of employer intimidation, and workers fired for union activity have the right to reinstatement. However, the government did not effectively enforce the law, and employers engaged in antiunion practices. The International Trade Union Confederation (ITUC) notes that the Law of Productivity and Competitiveness legalizes unfair dismissals by giving companies the right to fire employees without justification if they offer severance pay fixed by the law. The ITUC alleged that unionists were pressured to accept the severance pay and were threatened with nonrenewal of contract under this law.

In December 2008, 27 workers were dismissed from Goodyear Peru: some were fired outright, while others reported being forced to sign voluntary resignation letters. Of the 27 workers who lost their jobs, 10 were founding members of the union, four were union officers, and the majority had more than 20 years of service to the company. The workers were dismissed just as their union began talks with the management on issues including freedom of association, collective bargaining, and the right to protection from arbitrary dismissals.

In March 600 workers were summarily fired at SiderPeru Iron and Steel Company in Chimbote.

While there are no known special exemptions or exemptions from regular labor laws in export processing zones (EPZs), businesses in EPZs had more flexibility under the law in hiring temporary labor. According to the MOL there is one recognized public-sector union with 122 members in one of the four EPZs. All labor in the EPZs (estimated at no more than 500 workers) was subcontracted.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including labor by children; however, there were reports that such practices occurred.

The ILO estimated that between 20,000 and 40,000 persons worked as forced laborers, primarily in the logging industry in two departments in the Amazon. The ILO's Committee of Experts (COE) in 2008 observed that forced labor practices, including slavery and debt bondage, affected many workers from indigenous communities. The COE called upon the government to take the necessary measures to criminalize and repress practices of forced labor in criminal law.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Laws exist to protect children from exploitation in the workplace and prohibit forced or compul-

sory labor; however, in practice, child labor remained a serious problem, and the laws were violated routinely in the informal sector. The ILO estimated that during the year there were approximately two million working children in the country. Child labor was a serious problem in gold mining, brick and fireworks manufacturing, stone extraction, timber production, brazil-nut production, and coca production.

The legal minimum age for employment is 14. However, children between the ages of 12 and 14 may work in certain jobs for up to four hours per day, and adolescents between ages 15 and 17 may work up to six hours per day if they obtain special permission from the MOL and certify that they are attending school. In certain sectors of the economy, higher minimums were in force: age 15 in industrial, commercial, or mining and age 16 in fishing. The government specifically prohibits a number of occupations considered hazardous for children, including working underground, lifting or carrying heavy weights, accepting responsibility for the safety of others, or working at night. The law prohibits work that jeopardizes the health of children and adolescents, puts their physical, mental, and emotional development at risk or prevents regular attendance at school.

The MOL's Office of Labor Protection for Minors may issue permits authorizing persons under age 18 to work legally and granted 768 such permits through October, which went to children between ages 16 and 17. Parents must apply for the permits, and employers must have a permit on file to hire a child. In many cases the child is working alongside the parents in the family business usually in the areas identified in sectors above.

The MOL is responsible for enforcing child labor laws, and its inspectors may investigate reports of illegal child labor. The ministry stated that inspectors conducted routine visits without notice to areas where persons or organizations reported child labor problems. The government reported that it fined and suspended operations of firms that violated labor laws.

Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. Through November there were 412 labor inspectors (233 in Lima) whose inspections focused on the formal sector.

The Office of the Ombudsman for Children and Adolescents (DEMUNA) worked with the MOL to document complaints regarding violations of child labor laws. There were more than 1,000 DEMUNA offices in municipalities throughout the country. DEMUNA also operated a decentralized child labor reporting and tracking system. MIMDES administered a program that sent specialized teachers to the streets to provide education and support to minors involved in begging and other kinds of work.

The National Inter-sectoral Commission for the Eradication of Forced Labor, a government entity, operated a program in Huachipa that targeted 150 children and adolescents working in brick making and other industries. The program provided information to raise awareness within the community about child labor, education for child workers, and assistance to parents to develop skills to find alternative employment.

*e. Acceptable Conditions of Work.*—The law states that workers should receive a just and sufficient wage determined by the government in consultation with labor and business representatives, as well as adequate protection against arbitrary dismissal. The statutory monthly minimum wage is 550 soles (\$192), which did not provide a decent standard of living for many families. The government estimated the poverty line to be approximately 207 soles (\$72) a month per person, a figure that varied by region. The MOL enforced the minimum wage only in the formal sector, which employed approximately 30 percent of the labor force, and many workers in the unregulated informal sector, most of whom were self-employed, received less. During the year labor representatives boycotted the National Labor Council, citing the government's refusal to raise the minimum wage.

The law provides for a 48-hour workweek and one day of rest and requires companies to pay overtime for more than eight hours of work per day and additional compensation for work at night. Labor, business, and the government reported that the majority of companies in the formal sector generally complied with the law.

On March 30, a supreme decree was passed which clearly states what are acts of discrimination against domestic workers. Employers have frequently required long hours from domestics and paid low wages.

Although occupational health and safety standards exist, the government often did not devote sufficient personnel, technical, and financial resources to enforce compliance with labor laws. Labor sources claimed that many inspectors were forced to pay for transportation to sites and were often harassed or refused entry by businesses. Many fines went uncollected, in part because the MOL lacked an efficient tracking system.

According to the MOL, its inspectors conducted 71,321 visits to worksites, including orientation (21 percent) and inspection (79 percent) and levied 882 fines on 8,132 companies, 337 for health and safety violations.

The National Federation of Mineworkers reported that, between January and October, 50 miners died in mining accidents mainly as a result of rockslides, falls, and asphyxiation among others.

In cases of industrial accidents, an agreement between the employer and worker usually determined compensation. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist for workers to remove themselves from potentially dangerous situations without jeopardizing employment.

## SAINT KITTS AND NEVIS

Saint Kitts and Nevis is a multiparty, parliamentary democracy and federation, with a population of approximately 39,200. In 2004 national elections, Prime Minister Denzil Douglas's Saint Kitts and Nevis Labour Party (SKNLP) won seven seats in the 11-seat legislature. International observers concluded that the election was credible and that the results reflected the will of the voters, but noted weaknesses in the electoral process. 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. In 2006 voters in Nevis elected Joseph Parry of the Nevis Reformation Party (NRP) as premier. Civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, problems included use of excessive force by police, poor prison conditions, and violence against women.

### RESPECT FOR HUMAN RIGHTS

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

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

Following a coroner's inquest, no police officers were charged with the 2007 police killing of Philmore "Kiddy" Seaton. Security force Private Louis Richards was charged and convicted of manslaughter for the 2007 killing of Clyde Williams.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and there were no reports that government officials employed them. However, due to an increasing number of violent incidents involving police, law enforcement officials came under increased scrutiny, and citizens were becoming increasingly afraid of reporting crime because of the heavy-handedness with which police carried out their duties. Corporal punishment is legal and an accepted measure for juveniles in schools and the justice system. A court can order that an accused person receive lashes if found guilty.

Authorities brought no charges against the police who shot and injured Devon Albertine in January 2008. Nor were charges brought against police who shot Beko Lapsey, also in January 2008. In both incidents, authorities determined that the shootings were justifiable.

*Prison and Detention Center Conditions.*—Prisons remained overcrowded, and facilities austere. Built in 1840, the prison on Saint Kitts had an intended capacity of 150 prisoners but held 259 prisoners; some prisoners slept on mats on the floor. There were separate facilities for men and women. The prison staff periodically received training in human rights.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred during the year.

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

*Role of the Police and Security Apparatus.*—The security forces consist of a 412-officer police force, including a paramilitary Special Services Unit, a coast guard, and a small defense force. Military forces patrolled jointly with the police. The military and the police report to the Ministry for National Security, Justice, and Labor.

Senior police officers investigated complaints against members of the police force. When warranted, they refer them to an internal disciplinary tribunal for adjudication; penalties include dismissal, warnings, or other administrative action. No infor-

mation was available as to the number or disposition of cases under consideration during the year.

*Arrest Procedures and Treatment While in Detention.*—Police may arrest a person based on the suspicion of criminal activity without a warrant. The law requires that persons detained be charged within 48 hours or be released. If charged, a detainee must be brought before a court within 72 hours. There is a functioning system of bail. Family members, attorneys, and clergy were permitted to visit detainees regularly.

Detainees may be held for a maximum of seven days awaiting a bail hearing. Those accused of serious offenses are remanded to custody to await trial, while those accused of minor infractions are released on their own recognizance.

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

The court system includes the 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.

*Trial Procedures.*—The constitution provides for a fair, speedy, and public trial, and these requirements generally were observed. Defendants have the right to be present and to consult with counsel in a timely manner. There is a presumption of innocence, and defendants may question or confront witnesses. Juries are used at the High Court level for criminal matters only. Free legal assistance was available for indigent defendants in capital cases only.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters, including lawsuits regarding alleged civil rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such practices, and the government generally respected these prohibitions in practice.

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

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

There were eight radio stations and two daily newspapers on the islands. In addition, each major political party published a weekly or fortnightly newspaper. Opposition publications freely criticized the government, and international media were available. Television was government owned, and there were some government restrictions on opposition access to the medium.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the International Telecommunication Union, there were 31 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. There was no organized Jewish community.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law does not address forced exile, but the government did not use it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees, but not to its 1967 protocol, which the government has not signed. However, the government has not established a system for providing protection to refugees. In

practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened, but it did not routinely grant refugee status or asylum.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and was prepared to cooperate with other humanitarian organizations in assisting refugees and asylum seekers. In the one case that occurred, a UNHCR interview determined that the asylum seeker was an economic refugee. There is an honorary UNHCR liaison in the country.

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

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

*Elections and Political Participation.*—There is a multiparty political system, in which political parties were free to conduct their activities. In December the government called for the next general elections to be held on January 26, 2010.

In the October 2004 general elections, Prime Minister Denzil Douglas's SKNLP returned to office after winning seven of eight Saint Kitts-assigned seats in the 11-seat National Assembly. The People's Action Movement (PAM) party won one seat. The Concerned Citizens Movement party won two of the three assembly seats assigned to Nevis. The Commonwealth observer team categorized the electoral rules as "followed but flawed" and reported concerns about voter fraud, intimidation, and foreign influence. Lack of a requirement to prove identity limited voting officials' ability to prevent persons voting more than once. Use of foreign campaign advisers was controversial, government information services were accused of biased coverage, and the government deported and refused reentry to a leading opposition consultant.

In 2007 parliament passed electoral reform legislation meant to address the PAM's allegations of corrupt electoral practices by the ruling SKNLP; however, the legislation did not address all such concerns, especially safeguards against persons voting multiple times. There are no campaign finance regulations or prohibitions on political parties paying for the transportation of overseas nationals to return to the country to vote. The new legislation does not include absentee voting, but there are no restrictions on political parties providing funding for citizens to return to vote. Although the opposition complained about the voter reregistration process, in which all voters were required to appear in person, it was completed in September 2008 without major incidents.

The island of Nevis exercises considerable self-government, with its own premier and legislature. In 2006 voters in Nevis elected Joseph Parry of the NRP as premier.

The governor general appoints three senators, two on recommendation of the prime minister and one on the recommendation of the leader of the opposition. There were no women in the parliament or the cabinet; three of four magistrates were women, the court registrar was a woman, and six of 11 permanent secretaries were women. In Nevis one elected member of the House of Assembly, the appointed president of the House of Assembly, and the island's resident judge were women.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year. The opposition PAM party continued to allege possible misconduct on the part of government officials.

Public officials are not subject to financial disclosure laws, and there is no agency responsible for combating government corruption.

While no laws provide for public access to government information, the government maintained a Web site with limited information concerning government actions.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

While there are no governmental restrictions on human rights groups, no local human rights groups operated in the country. There were no requests for investigations or visits by international human rights groups during the year.

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

The constitution prohibits discrimination based on race, place of origin, birth out of wedlock, political opinion or affiliation, color, gender, or creed, and the government generally respected these prohibitions in practice.

*Women.*—The law prohibits rape, but it does not address spousal rape. Penalties for rape range from two years' imprisonment for incest between minors to life imprisonment for statutory rape or incest with someone under 16. Indecent assault has a maximum penalty of seven years' imprisonment. Incest with a person 16 or older carries a penalty of 20 years' imprisonment. During the year police investigated a number of cases of rape and indecent assault.

Violence against women was a problem. The law criminalizes domestic violence, including emotional abuse, and provides penalties of up to EC\$13,500 (\$5,000) or six months in prison. Although many women were reluctant to file complaints or pursue them in the courts, the Ministry of Gender Affairs handled an annual average of 25 to 30 reports of domestic violence. The director believed that, due to the nature of the crime, many women did not feel comfortable reporting it or asking for a protection order. There were no prosecutions or convictions for domestic violence during the year.

The ministry offered counseling for victims of abuse and conducted training on domestic violence and gender violence for officials in the police and fire departments, nurses, school guidance counselors, and other government employees.

Prostitution is illegal and was not considered a problem.

The law does not specifically address sexual harassment, and it remained a problem.

The role of women in society is not restricted by law but was circumscribed by culture and tradition. Reproductive rights were generally protected; couples and individuals had the right to decide the number, spacing, and timing of children. The National Family Planning Office provided information on contraception and support for reproductive rights on a nondiscriminatory basis. Skilled attendance at delivery and in postpartum care was widely available. Women and men were given equal access to diagnostic services and treatment for HIV/AIDS and sexually transmitted diseases.

There was no overt societal discrimination against women in employment, although analyses suggested that women did not occupy as many senior positions as men. The Ministry of Gender Affairs conducted programs addressing poverty and health and promoting institutional mechanisms to advance the status of women and attain leadership positions for women. Although no legislation requires equal pay for equal work, women and men generally received equal salaries for comparable jobs.

*Children.*—Children acquire citizenship by birth in the country, and all are registered at birth and equally able to access public education and public services. Children born to citizen parents abroad can be registered by either of their parents.

Child abuse remained a major problem. The law sets the age of consent at 16. Authorities received a number of reports of sexual assaults against children during the year and brought charges in cases involving alleged sexual activity with minors (indecent assault). Under the statutory rape law, sexual relations with anyone under 16 is illegal, with penalties ranging from probation to life in prison. Child pornography is illegal and carries a penalty of up to 20 years in prison.

*Trafficking in Persons.*—Laws criminalize trafficking in persons that include all elements of the offense, such as withholding identification or travel documents of a person and controlling and restricting the movement of a person. The penalties for trafficking in persons range from 20 years to life in prison. There were no confirmed reports that persons were trafficked to, from, or within the country. The UNHCR representative noted that trafficking for the purpose of labor exploitation was known to occur, especially in the form of importing foreign nationals from Guyana and other countries to work on construction projects for lower wages.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—While the law prohibits discrimination, it does not specifically cite discrimination against persons with disabilities. There was no reported discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law does not mandate access to buildings for persons with disabilities.

Persons who are mentally ill and deemed a menace to society can be incarcerated for life; there were five such persons in the prison. Ministry of Health nurses in the various district health centers deal with persons with mental illness, and the General Hospital has a wing dedicated to caring for patients with mental illness.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws that prohibit discrimination against a person on the basis of sexual orientation. Homosexual acts are illegal and carry penalties up to 10 years in prison.

*Other Societal Violence or Discrimination.*—Although no statistics were available, anecdotal evidence suggested that societal discrimination against persons with HIV/AIDS occurred.

*Section 7. Worker Rights*

*a. The Right of Association.*—Workers exercised their legal right to form and join trade unions. Employers are not bound legally to recognize a union, but in practice employers did so if a majority of workers polled wished to organize. Approximately 10 percent of the workforce was unionized. The law permits the police, civil service, and other organizations to organize associations that serve as unions. The major labor union, the Saint Kitts Trades and Labour Union, was associated closely with the SKNLP and was active in all sectors of the economy.

The right to strike, while not specified by law, is well established and respected in practice. Restrictions on strikes by workers who provide essential services, such as the police and civil servants, were enforced by established practice and custom but not by law.

*b. The Right to Organize and Bargain Collectively.*—Labor unions have the legal right to organize and to negotiate better wages and benefits for union members, and the government protected these rights in practice. A union that obtains membership of more than 50 percent of employees at a company can apply to be recognized by the employer for collective bargaining.

The law prohibits antiunion discrimination but does not require employers found guilty of such action to rehire employees fired for union activities. However, the employer must pay lost wages and severance pay to employees who worked at least one year, based upon their length of service.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The constitution prohibits slavery, servitude, and forced labor of children, and the Department of Labor effectively enforced this law in practice. There were no reports of child labor during the year. The minimum legal working age is 16 years. The Department of Labor relied heavily on school truancy officers and the Community Affairs Division to monitor compliance, which they generally did effectively.

Juveniles worked in agriculture, domestic service, and illicit activities. In rural areas where families engaged in livestock farming and vegetable production, children often were required to assist as part of family efforts at subsistence. Girls often engaged in domestic service. Such labor included family-oriented work where children were made to look after younger siblings or ailing parents and grandparents at the expense of their schooling. Children often worked in other households as domestic servants or babysitters. In general society did not consider domestic work exploitive child labor.

*e. Acceptable Conditions of Work.*—The government sets the minimum wage, which was increased in October 2008 to EC\$8.00 (\$3.00) an hour. The Ministry of Labor received tripartite input from the major labor union, private sector groups, and the Ministry of Finance, and the minimum wage was debated openly in parliament. Average wages were considerably higher than the minimum wage, which would not provide a decent standard of living for a worker and family. The Labor Commission undertook regular wage inspections and special investigations when it received complaints; it required employers found in violation to pay back wages.

The law provides for a 40- to 44-hour workweek, but the common practice was 40 hours in five days. Although not required by law, workers received at least one 24-hour rest period per week. The law provides for premium pay for work above the standard workweek. There was no legal prohibition of excessive or compulsory overtime, although local custom dictated that a worker could not be forced to work overtime.

While there are no specific health and safety regulations, the law provides general health and safety guidance to Department of Labor 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.

## SAINT LUCIA

Saint Lucia is a multiparty, parliamentary democracy with a population of approximately 171,000. In generally free and fair elections in 2006, former prime minister Sir John Compton returned to power when his United Workers Party (UWP) defeated the previously ruling Saint Lucia Labour Party (SLP), winning 11 seats in the 17-member House of Assembly. In 2007 Stephenson King was appointed prime minister following Compton's death. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in a few areas, primarily abuse of suspects and prisoners by the police, long delays in trials and sentencing, violence against women, and child abuse.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, security forces killed two persons during the year. The Criminal Investigations Department had investigations under way at year's end.

On July 24, police shot and killed Anthony Fulgence in an attempt to stop a motorcycle he was riding as a passenger. The driver of the motorcycle claimed not to know that he was being followed by police and only stopped when he heard gunshots. Authorities placed the police officer on administrative duties, and he later retired from the force while the investigation was pending.

On November 30, an undercover police officer shot and killed Alfred James during an investigation of a robbery. Authorities placed the officer on administrative leave and opened an investigation.

The director of public prosecution continued reviewing the case of the December 2008 police killing of John Garvy Alcindor and the measures put in place to deal with "a few offending officers."

The case of the alleged police killing in August 2008 of Timothy St. Luce of Bouton remained pending in court. There was no information available about pending investigations into police shootings in 2007, 2006, and 2005.

*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, prisoners and suspects regularly complained of physical abuse by police and prison officers.

On May 14, Keiran Herman claimed that police tortured him at the La Toc station, just south of Castries. Herman alleged that police beat, kicked, and used a cable wire to assault him; an investigation was under way at year's end.

During the year citizens filed a number of complaints against the police, most of which were for abuse of authority.

There was no information available about results of any investigations into the November 2008 case in which police shot and injured Miguel Edwards, the 2007 incident in which members of the police Special Services Unit shot Andre Halls in the leg, and the 2006 police shooting of a 17-year-old boy.

*Prison and Detention Center Conditions.*—Prison conditions generally met minimum international standards at the four-year-old Bordelais Correctional Facility, which had an intended capacity of 500 prisoners and held approximately 50 above that number. Some prisoners and family members complained about treatment of prisoners at the facility. The government added 40 additional guards to the facility to help curb the smuggling of drugs and cell phones into the facility.

The Boys Training Center, a facility for boys charged with criminal offenses or suffering from domestic or other social problems, operated separately from the prison and conditions were substandard. The boys in the program normally stay for two years and receive vocational training while enrolled. There were continuing complaints about the facility, and at year's end a site had been cleared for a new facility.

The government permitted prison visits by independent human rights observers, but no such visits took place during the year.

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

*Role of the Police and Security Apparatus.*—The Royal Saint Lucia Police numbered 826 officers, which included a Special Services Unit with some paramilitary training and a coast guard unit. The police force reports to the Ministry of Home Affairs and Internal Security, a portfolio held by the prime minister.



The police force's internal complaints unit, which consists of retired police officers, received and investigated complaints made by the public and sent its findings to the Police Complaints Commission, a civilian body. The commission reviewed the cases and made recommendations for internal disciplinary action, but human rights monitors considered the process ineffective, and the director of public prosecution stated that the commission had not made any recommendations for prosecution in several years.

*Arrest Procedures and Treatment While in Detention.*—The constitution stipulates that persons must be apprehended openly with warrants issued by a judicial authority and requires a court hearing within 72 hours of detention. Detainees are allowed prompt access to counsel and family. There is a functioning bail system.

Prolonged pretrial detention continued to be a problem; approximately 150 of the prisoners at Bordelais Correctional Facility were on remand awaiting trial. Those charged with serious crimes spent an estimated six months to four years in pretrial detention.

In November Eugene St. Romain alleged that he had been detained at the Bordelais Correctional Facility since April 2004 on a charge of murder but was never tried. He hired an attorney to contest his detention on the grounds that he was not given access to a fair and speedy trial. The court heard the complaint and set a trial date in early 2010.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

The court system includes magistrate's courts and the High Court, both of which have civil and criminal jurisdiction. The lower courts accept civil claims up to EC\$5,000 (approximately \$1,850) and criminal cases generally classified as "petty." The High Court has unlimited authority in both civil and criminal cases. All cases may be appealed to the Eastern Caribbean Court of Appeal and to the Privy Council in the United Kingdom as the final court of appeal. A family court handles child custody, maintenance, support, domestic violence, juvenile affairs, and related matters.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Trials can be by jury, are public, and, in cases involving capital punishment, legal counsel is provided for those who cannot afford a defense attorney. Defendants are entitled to select their own representation, are presumed innocent until proven guilty in court, and have the right of appeal. Defendants have the right to confront or question witnesses and have access to government-held evidence. An attorney can be provided at public expense if needed in cases of serious criminal charges.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent, impartial judiciary in civil matters where one can bring lawsuits seeking damages for a human rights violation.

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

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

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

On August 8, Novita Emmanuel, a reporter with Think Caribbean Television, filmed an individual committing a traffic violation. That person assaulted the reporter; the incident occurred in front of a police constable who refused to intervene. The constable, employed by the National Insurance Corporation, had not been given the proper training on how to respond. The police commissioner promised to discipline the constable if he was found to have acted inappropriately.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was largely available in homes, offices, and Internet cafes in urban areas; infrastructure limitations restricted Internet access in some villages. According to the International Telecommunication Union, there were 59 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

The government continued a suspension of all applications for official registration by faith-based organizations while it revised its policy on registration. This moratorium affected the Muslim community, the Church of Jesus Christ of Latter-day Saints, and approximately 10 other organizations. While awaiting registration, religious groups had the freedom to meet and worship according to their beliefs.

Rastafarians continued to complain that the use of marijuana, an aspect of their religious ritual, was prohibited.

*Societal Abuses and Discrimination.*—Rastafarians complained of occasional societal discrimination, especially in hiring and in schools. There was no organized Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

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

*Protection of Refugees.*—The country is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, and no formal government policy toward refugee or asylum requests existed. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

Although no known cases occurred, the government was prepared to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

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

*Elections and Political Participation.*—In 2006 Sir John Compton's UWP defeated Kenny Anthony's SLP by winning 11 of 17 parliamentary seats. According to electoral observer missions from both the Organization of American States and the Caribbean Community, the elections were generally considered free and fair. Following Compton's death in September 2007, the governor general, in accordance with the constitution, appointed Stephenson King, the person who commanded the majority in the House of Assembly, as prime minister.

Political parties could operate without restrictions.

There was one woman elected to the 17-seat House of Assembly, and the appointed speaker of the house was a woman. There were three women in the 11-member appointed Senate; one served as president of the Senate, and one served as the sole female member of the 14-person cabinet. The governor general was a woman.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government generally implemented the law effectively. Corruption continued to be viewed as serious and was widely discussed by the media, the business community, and opposition politicians. Observers expressed concern that the country was moving backwards in terms of transparency and accountability. There was also concern that some foreign assistance programs go through the specific offices of parliamentarians, providing the opportunity for graft.

Numerous accounts of government corruption occurred during the year. In August a judge found Health Minister Keith Mondesir guilty of falsely receiving duty free status for furniture designed for his personal residence and fined him EC\$14,000 (\$5,200). The attorney general and other cabinet members were also under scrutiny for approving this duty free waiver for their colleague.

In 2008 authorities questioned Housing Minister Richard Frederick twice concerning alleged involvement in customs duty evasion that occurred before Frederick

was in office. In June authorities transferred the comptroller of customs to a different ministry, and the new comptroller released evidence that compromised the validity of documentation in the case, thus nullifying it. The confiscation tape locking the cars was also removed, allowing Frederick use of the vehicles.

High-level government officials, including elected officials, are subject to annual disclosure of their financial assets to the Integrity Commission, a constitutionally established commission. The parliamentary commissioner, auditor general, and the Public Services Commission are responsible for combating corruption. Parliament can also appoint a special committee to investigate specific allegations of corruption.

The law provides for public access to information, and parliamentary debates are open to the public. The Government Information Service disseminated public information on a daily basis, operated an extensive Web site, and published a number of official periodicals.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

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

The constitution prohibits discrimination, but there was no specific legislation addressing discrimination in employment or against persons with disabilities. However, government policy was nondiscriminatory in the areas of housing, jobs, education, and opportunity for advancement.

*Women.*—The law effectively criminalizes rape, but not spousal rape. Police and courts enforced laws to protect women against rape, which is punishable by 14 years' to life imprisonment. The police were not reluctant to arrest or prosecute offenders, although many victims were reluctant to report cases of rape or to press charges. No data were available about the number of rapes reported, charges brought, or convictions obtained. The Director of Public Prosecution reported that sexual assault cases were a growing problem, but that most cases were not prosecuted due to the reluctance of victims to press charges.

Domestic violence was the most significant human rights problem in the country. While police were willing to arrest offenders, the government prosecuted crimes of violence against women only when the victim pressed charges. Often victims were reluctant to press charges due to their reliance on financial assistance of the abuser. Shelters, hotlines, and improved police training were all used to deal with the problem, but the lack of financial security for the victim was the key impediment. Shelters were operated in private homes, in order to preserve the privacy of the victims, but the location of a shelter was hard to keep secret. The family courts heard cases of domestic violence and crimes against women and children.

The Ministry of Health Wellness, Family Affairs, National Mobilization, Human Services, and Gender Relations assisted victims. Most of the cases were referred to a counselor, and the police facilitated the issuance of court protection orders in some cases. Police caught and charged perpetrators in a number of domestic violence cases.

The police Vulnerable Persons Unit, designed to handle cases involving violence against women and children, increased police responsiveness to these cases. As a result the police reported an increase in the reporting of sexual crimes against women and children during the first half of the year. This unit worked closely with the Family Court and the ministry's Gender Relations and Human Services Divisions.

The Gender Relations Division also ran the Women's Support Center, which provided shelter, counseling, residential services, a 24-hour hotline, and assistance in finding employment. Various nongovernmental organizations (NGOs), such as the Saint Lucia Crisis Center and the National Organization of Women (NOW), also provided counseling, referral, education, and empowerment services. The crisis center assisted in cases of physical violence, incest, nonpayment of child support, alcohol and drug abuse, homelessness, custody, and visitation rights.

The Family Court can issue a protection order prohibiting an abuser from entering or remaining in the residence of a specified person. Occupation and tenancy orders provide certain residential rights to victims of domestic violence, such as rental payments and other protective orders. The Family Court employed full-time social workers who assisted victims of domestic violence.

Prostitution is illegal, but laws against it were rarely enforced. Some underground strip clubs were fronts for prostitution and reportedly were owned and/or protected by corrupt police officers. There were no arrests for prostitution during the year.

The criminal code prohibits sexual harassment, but it remained a problem as government enforcement was not an effective deterrent. The Gender Relations Division continued an awareness program through which it provided training opportunities in workplaces and assisted establishments in creating policies and procedures on how to handle sexual harassment. As a result, most cases of sexual harassment were handled in the workplace rather than being prosecuted under the criminal code.

There were no restrictions on reproductive rights, and women and couples were free to choose the number, spacing, and timing of their children. Skilled attendance at delivery and in postpartum care was widely available. Access to contraception was widely available. Testing for HIV and sexually transmitted diseases was non-discriminatory and also widely available.

Women generally enjoyed equal rights, including in economic, family, property, and judicial matters. However, the fire chief refused to allow a female firefighter, who completed a two-year training program and was ready to take the final exam, to take the test because she was pregnant. The Caribbean Association for Feminist Research and Action (CAFRA) took on the issue, arguing that the authorities can and should make reasonable accommodations to allow such persons to take the test, which was offered only once a year. Women's affairs were under the jurisdiction of the Gender Relations Division, whose parent ministry was responsible for protecting women's rights in domestic violence cases and preventing discrimination against women, including ensuring equal treatment in employment.

*Children.*—Children receive citizenship by birth to a Saint Lucia parent. Birth certificates were provided to the parents within a reasonable administrative delay.

Child abuse remained a problem. The Division of Human Services and Family Affairs handled a number of cases of sexual abuse, physical abuse, abandonment, and psychological abuse, but no figures were available to compare with cases reported in 2008.

The few social welfare programs in the country were overwhelmed. As a result, parents of sexually abused children sometimes declined to press sexual assault charges against the abuser in exchange for financial contributions toward the welfare of victims of such abuse. Nonetheless, courts heard some child sexual abuse cases and convicted and sentenced offenders.

The human services division provided a number of services to victims of child abuse, including counseling, facilitating medical intervention, finding foster care, providing family support services, and supporting the child while working with the police and attending court. The division was also involved with public outreach in schools, church organizations, and community groups.

CAFRA operated a hotline for families suffering from different forms of abuse; however, there was no government shelter for abused children, resulting in the return of many children to the homes in which they were abused. Through the hotline, CAFRA learned of various cases of sexual abuse that were never reported to the police. The government did not provide funding for foster care, and few families were willing to take in foster children.

There was no evidence of children engaged in prostitution for survival.

Laws on rape include statutory rape; the age of consent is 16. There was no information available about whether the law prohibits child pornography.

The Catholic Church operated the Holy Family Home for abused and abandoned children, with space for up to 40 children who were referred to the center by the police or social workers.

*Trafficking in Persons.*—The law does not specifically prohibit all forms of trafficking in persons, but there were no confirmed reports that persons were trafficked to, from, or within the country.

There were anecdotal reports that women from the Dominican Republic, Colombia, Venezuela, Brazil and some Eastern European countries entered the country irregularly where they worked at strip clubs and brothels. There were reports that police owned and/or protected many of these clubs. There were no cases of children being trafficked.

Although there are laws prohibiting slavery, forced labor, forced imprisonment, and kidnapping that could be used to prosecute alleged traffickers, there were no reports of such prosecutions during the year. The government established a National Coalition against Trafficking in Persons consisting of the Gender Relations Division, the Human Services Division, the police, and the Immigration Service. Lack of funding hampered the coalition's efforts to detect and investigate cases of trafficking and to protect victims.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—No specific legislation protects the rights of persons with disabilities or mandates provision of government services for them. The government is obliged to provide disabled access to all public buildings, but only a few government buildings had ramps to provide access. There was no rehabilitation facility for persons with physical disabilities, although the Health Ministry operated a community-based rehabilitation program in residents' homes. There were schools for the deaf and the blind up to the secondary level. There were isolated cases of persons with disabilities holding jobs, including one blind bank teller, but a recent blind graduate from the local community college was not able to secure employment. There also was a school for persons with mental disabilities; however, children with disabilities faced barriers in education, and there were few opportunities for such persons when they became adults.

In October a new foreign-built mental health facility was completed and furnished but not equipped, which is the responsibility of the government. The existing state-operated mental health facility was a century-old building that will be decommissioned once the new facility is in operation. There were no other mental health facilities on the island, and mentally ill persons were not generally provided much care. The government's four mental health social workers had an average of over 100 cases each.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law criminalizes homosexual relations, and there was widespread social discrimination against lesbians, gays, bisexual, and transgender (LGBT) persons in the deeply conservative society. There were few openly LGBT persons in the country.

*Other Societal Violence or Discrimination.*—There was widespread stigma and discrimination against persons infected with HIV/AIDS, although the government implemented several programs to address this issue, including a five-year program to combat HIV/AIDS. The UN Population Fund also provided support for youth-oriented HIV/AIDS prevention programs.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law specifies the right of workers to form or belong to trade unions under the broader rubric of the right of association. Approximately 25 percent of the total workforce were unionized, including most public sector employees. There were four major unions, the largest being the National Workers Union (NWU), with over 3,000 members in private sector firms; the civil service association, a quasi-union as civil service workers were not legally allowed to join a union, with 1,008 members; the teachers union; and the prison service and police welfare associations that were also quasi-unions. All the unions belong to the Saint Lucia Trade Union Federation (SLTUF). The NWU recently organized workers for the first time in the financial services industry and formed a financial services council to look at ways to harmonize benefits and wages in the growing financial services sector.

Unions have a right to strike, and workers exercised that right. However, the law prohibits members of the police and fire departments from striking on the grounds that these professions were "essential services." Workers in other essential services—water and sewer authority workers, electric utility workers, nurses, and doctors—must give 30 days' notice before striking. Once workers have given notice, the matter is usually referred to ad hoc tribunal set up under the Essential Service Act. The government selects tribunal members, following rules to ensure tripartite representation. The ad hoc labor tribunals try to resolve the dispute through mandatory arbitration.

In April the civil service association and the SLTUF went on strike against the government for failing to honor an agreement to provide civil service workers with a 7.5 percent pay raise in May, as the second component of an overall 14.5 percent raise. The SLTUF agreed to accept the 3.5 percent that government had unilaterally given in May but insisted that the government pay an additional 0.625 percent retroactively and pay the balance of the 7.5 percent in April 2010 retroactive to April 2009.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the government generally protected this right. Collective bargaining is protected by law and was freely practiced.

The law does not prohibit antiunion discrimination, and workers fired for union activity did not have the right to reinstatement. In practice many companies were openly antiunion.

The NWU filed a complaint with the labor commissioner that Diamond International Corporation engaged in antiunion discrimination through selective dis-

missal of pro-union activists. The chief counsel of the company, according to the union, was politically connected and able to influence the labor commissioner not to take action on the complaint. The NWU considered the matter to be a continuing labor dispute but recognized that the complaint will not be acted upon.

The NWU general secretary also noted that there were a number of other instances of antiunion activity on the part of corporations, particularly among the foreign-owned hotel chains, but that the NWU was not taking issue with them due to the slowing of the economy.

Labor law is applicable in the export processing zones, and there were no administrative or legal impediments to union organizing or collective bargaining in those zones. The NWU was the only union representing workers in the export processing zones, representing workers in eight companies operating there.

*c. Prohibition of Forced or Compulsory Labor.*—The government prohibits forced or compulsory labor, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides for a minimum legal working age of 16 years. The minimum legal working age for industrial work is 18 years. Child labor existed to some degree in the rural areas, primarily where school-age children helped harvest bananas from family trees. Children also typically worked in urban food stalls or sold confectionery on sidewalks on nonschool days and during festivals. The Department of Labor of the Ministry of Labor Relations, Public Service, and Cooperatives was responsible for enforcing statutes regulating child labor. Employer penalties for violating the child labor laws were EC\$9.60 (\$3.55) for a first offense and EC\$24 (\$8.88) for a second offense. There were no formal reports of violations of child labor laws.

*e. Acceptable Conditions of Work.*—Minimum wage regulations in effect since 1985 set wages for a limited number of occupations. The minimum monthly wage for office clerks was EC\$300 (\$111), for shop assistants EC\$200 (\$74), and for messengers EC\$160 (\$59). The government recognized that the minimum wage law was outdated and sought to meet with tripartite social partners to discuss it, but the matter was not resolved by year's end. The minimum wage did not provide a decent standard of living for a worker and family, but most categories of workers received much higher wages based on prevailing market conditions. However, a number of smaller establishments paid less than the minimum wage, and Haitians and others often received less than minimum wage.

The labor commissioner is charged with monitoring violations of labor law, including the minimum wage. There were three compliance officers to cover the entire country and to monitor compliance with occupational and safety standards, and pension standards as well as minimum wage violations. In practice there were few reported violations as those who received less than the minimum wage were often in the country illegally and afraid of reprisals including possible deportation. Labor unions did not routinely report such violations.

The legislated workweek is 41 hours, although the common practice was to work 40 hours in five days. Special legislation covers work hours for shop assistants, agricultural workers, domestics, and persons in industrial establishments.

Occupational health and safety regulations were relatively well developed. Although there had been only one qualified inspector for the entire country, the ministry hired several new occupational and safety inspectors and was reviewing proposed updates to the occupational and safety act. The ministry enforced the act through threat of closure of the business if it discovered violations and the violator did not correct them. However, actual closures rarely occurred because of lack of staff and resources. Workers had the legal right to leave a dangerous workplace situation without jeopardy to continued employment.

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## SAINT VINCENT AND THE GRENADINES

Saint Vincent and the Grenadines is a multiparty, parliamentary democracy with a population of approximately 118,400. In 2005 Prime Minister Ralph Gonsalves' Unity Labour Party (ULP) was returned to office in elections that international observers assessed as generally free and fair. On November 25 citizens voted on a referendum that observers also found generally free and fair. Civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, there were continued problems in a few areas, primarily impunity for police who used excessive force, poor prison conditions, an overburdened court system, violence against women, and abuse of children.

## RESPECT FOR HUMAN RIGHTS

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

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

According to the director of public prosecutions (DPP), a coroner's inquest was held on the 2007 killing by security forces of two Venezuelan nationals, Matias Dominquez and Alexis Munoz, and no one was found culpable. Similarly, a coroner's jury in August 2008 returned a verdict of death by "misadventure" in the 2005 police shooting of Joel Williams. The DPP was still considering the case of the 2005 police shooting of Selwyn Moses.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits such practices, the nongovernmental organization (NGO) St. Vincent and the Grenadines Human Rights Association (SVGHRA) asserted that a number of confessions resulted from unwarranted police practices, including the use of physical force during detention. The SVGHRA continued to complain that the government failed to investigate adequately allegations of abuse or punish those police officers responsible for such abuses.

During a May 21 narcotics raid, security forces shot and killed three men, in what police claimed was self-defense. However, the SVGHRA and at least one civil society activist reported that security forces used a disproportionate amount of force and that the men were unarmed.

In November 2008 two teenagers, Jemark Jackson and Kemron McDowald, claimed police officers beat them. According to the DPP, McDowald never alleged any impropriety against the police and declined to give a statement on the matter. Authorities charged a corporal and two constables from the Criminal Investigations Department with assaulting Jackson and causing bodily harm and suspended all three officers from duty. The case was raised before the Senior Magistrate on October 5, and adjourned, first to October 26 and then to January 2010.

Police officers investigated all complaints from citizens about assault or other abuse by the police and submitted their findings to the police commissioner. The government did not provide any information about the disposition of such complaints or any disciplinary charges or other actions taken.

According to the DPP, the court dismissed the case of an alleged police slapping of Calypsonian Grantley "I-Pa" Constance in 2007.

*Prison and Detention Center Conditions.*—Prison conditions remained poor. Prison buildings were antiquated and overcrowded, with Her Majesty's Prison in Kingstown holding nearly 400 inmates in a building intended to hold approximately 150 inmates, a situation that created serious health and safety problems. A larger prison, the Belle Isle Correctional Facility, with separate buildings for male and female inmates, was officially opened on October 22. Most prisoners moved into the new facility by the end of year, and the remainder were to be moved in early 2010.

The SVGHRA reported that prison problems such as endemic violence, understaffing, underpaid guards, uncontrolled weapons and drugs, increasing incidence of HIV/AIDS, and unhygienic conditions persisted. Corrupt prison staff commonly served as a source of drugs, weapons, and cell phones. The SVGHRA also continued to allege that guards routinely beat prisoners to extract information regarding escapes, violence, and crime committed in the prison.

The Fort Charlotte Prison held 13 female inmates (nine sentenced and four on remand status) in a separate section designed to hold 50 inmates, where conditions were antiquated and unhygienic. The facilities at Belle Isle promise to be better. Pretrial detainees and young offenders (16 to 21 years of age) were held with convicted prisoners.

Conditions were inadequate for juvenile offenders. Boys younger than 16 were held at the Liberty Lodge Boys' Training Center, which takes in at-risk boys who can no longer stay at home due to domestic problems or involvement with criminal activity. Most of the 30 boys were at the center because of domestic problems, and only a small number were charged with committing a crime.

The Guadeloupe Home for Girls, a center for at-risk girls was established recently. Funded mainly by the local Catholic Church, the center falls within the purview of the Ministry of Social Development and Mobilization.

The government permitted prison visits by independent human rights observers, and such visits took place during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, complaints continued regarding police practices in bringing cases to court.

*Role of the Police and Security Apparatus.*—The Royal Saint Vincent and the Grenadines Police, the only security force in the country, includes a coast guard, a small Special Services Unit with some paramilitary training, and the fire service. There were approximately 850 members of the police force. The police report to the minister of national security, a portfolio held by the prime minister.

The government operated an oversight committee to monitor police activity and hear public complaints about police misconduct. The committee reported to the minister of national security and to the minister of legal affairs and actively participated in investigations during the year.

*Arrest Procedures and Treatment While in Detention.*—The law requires judicial authority to issue arrest warrants. Police apprehended persons openly, and detainees may seek judicial determinations of their status after 48 hours if not already provided. The bail system functioned and was generally effective. A local human rights group reported that most detainees were given prompt access to counsel and family members, although in some instances delays occurred.

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

The judiciary consists of lower courts and the High Court, with appeal to the Eastern Caribbean Court of Appeal and final appeal to the Privy Council in the United Kingdom. There were three official magistrates; in addition the registrar of the High Court has the authority to sit as a magistrate if called upon. The chief magistrate also served as president of the family court, which handled criminal cases for minors up to age 16.

*Trial Procedures.*—The law provides for fair, public trials, and an independent judiciary generally enforced this right. Juries are used at the High Court level for criminal matters but are not used for civil court or crimes at the magistrate level. The court appoints attorneys only for indigent defendants charged with a capital offense. Defendants are presumed innocent until proven guilty, may confront and question witnesses, may appeal verdicts and penalties, and have access to relevant government-held evidence once a case reaches the trial stage. Lengthy delays occurred in preliminary inquiries for serious crimes. A backlog of pending cases continued because the magistrate's court in Kingstown continued to lack a full complement of magistrates.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent, impartial judiciary in civil matters where one can bring lawsuits seeking damages for a human rights violation.

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

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

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

The independent media were active and expressed a wide variety of views without restriction. However, there continued to be accounts of the prime minister or other officials rebuking the press for comments critical of the government.

Journalist Jeff Trotman agreed to an out-of-court settlement over his December 2008 arrest for taking pictures of a burning building from 20 feet behind police barriers. After the incident, the police commissioner issued a "Force Order" with respect to handling such matters, which reiterated the rights of journalists.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that there were 60 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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



*Societal Abuses and Discrimination.*—There was no organized Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits forced exile, and it was not used.

*Protection of Refugees.*—Although the country is a signatory of the 1951 Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a system for providing protection to refugees or asylum seekers. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened, but it did not grant refugee status or asylum.

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

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

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

*Elections and Political Participation.*—In 2005 the ruling ULP was returned to office in elections that international observers declared to be generally free and fair.

On November 25, 56 percent of the voters rejected a new constitution in a nationwide referendum that observers from NGOs, the Caribbean Community, and the Organization of American States considered generally free and fair. The proposed constitution would have significantly changed the country's governance structure and severed most remaining ties with the United Kingdom.

There were two women in the 15-seat House of Assembly and three women in the cabinet. There was one woman among the six appointed senators, who also served as deputy speaker.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively.

There were no financial disclosure laws for public officials. No government agency was specifically responsible for combating government corruption.

The law provides for public access to information, and the government provided such access in practice.

### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no restrictions on international human rights groups. A domestic human rights group, the SVGHRA, generally operated without government restriction, investigating and publishing its findings on human rights cases, particularly with respect to treatment of prisoners. Government officials generally were responsive, but the SVGHRA continued to report that its complaints regarding allegations of police brutality typically received perfunctory responses from the government. Other advocacy groups, particularly those involved with protection against domestic violence and child abuse, worked closely with their corresponding government offices.

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

The law provides for equal treatment regardless of race or gender, and the government generally enforced this provision in practice.

*Women.*—Rape, including spousal rape, is illegal, and the government generally enforced the law. Depending on the magnitude of the offense and the age of the victim, sentences for rape could be eight to 10 years' imprisonment. The possible sentence of life imprisonment was very rarely used. The three court sittings heard 23 sexual offenses during the year, of which 14 were completed and nine carried over to 2010. These included two cases of incest, seven rapes, and one attempted rape.

Violence against women remained a serious problem. The law does not criminalize domestic violence specifically but provides protection for victims. Cases involving domestic violence were normally charged under assault, battery, or other similar laws. The SVGHRA reported that, in many instances, domestic violence went unpunished

due to a culture in which victims choose not to seek assistance from the police or the prosecution of offenders. Furthermore, a number of victims decided not to press charges once domestic tensions cool down after having already complained to the police. For this reason police were often reluctant to follow up on domestic violence cases, according to the SVGHRA.

The Gender Affairs Division of the Ministry of National Mobilization, Social Development, NGO Relations, Family, Gender Affairs, and Persons with Disabilities provided a referral and information service for domestic violence victims, educating victims on the role of the police, legal matters, and the family court in dealing with domestic violence, as well as possible assistance from various NGOs. The Marion House provided counseling to victims of abuse. The SVGHRA and other organizations conducted numerous seminars and workshops to familiarize women with their rights. Development banks provided funding through the Caribbean Association for Feminist Research and Action for a program on domestic violence prevention, training, and intervention. Police received training on domestic abuse, emphasizing the need to file reports and, if there was sufficient evidence, to initiate court proceedings. To counter the social pressure on victims to drop charges, some courts imposed fines against persons who brought charges but did not testify.

Although prostitution is illegal, a local human rights group reported that it remained a minor problem among young women and teenagers.

The law does not specifically prohibit sexual harassment, although it could be prosecuted under existing laws. Local human rights groups considered these laws ineffective.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Women enjoyed the same legal rights as men. Women received an equitable share of property following separation or divorce. The Gender Affairs Division assisted the National Council of Women with seminars, training programs, and public relations. The minimum wage law specifies that women should receive equal pay for equal work, and this was generally enforced in practice.

*Children.*—Citizenship is derived by birth within the country's territory or from either of one's parents. There was universal birth registration.

The law provides a limited legal framework for the protection of children, and the Family Services Division of the Social Development Ministry monitored and protected the welfare of children. The division referred all reports of child abuse to the police for action and provided assistance in cases where children applied for protection orders with the family court.

The minimum age of consensual sex is 15 years of age. The penalty for child prostitution is 14 years' imprisonment. The law prohibits statutory rape, with special provisions for those under 13 years of age. The penalty for statutory rape of a girl over 13 but under 15 is five years' imprisonment; under 13 it is life imprisonment. The law does not specifically prohibit child pornography.

*Trafficking in Persons.*—The law does not address trafficking in persons specifically, nor does the government have any specific programs to do so; however, there were no reports that persons were trafficked to, from, through, or within the country.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, and the provision of other state services, and the government generally observed these prohibitions in practice. The law does not mandate access to buildings for persons with disabilities, and access for such persons generally was difficult. The government partially supported a school for persons with disabilities. A separate rehabilitation center treated approximately five persons daily. The Social Development Ministry is responsible for assisting persons with disabilities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law does not criminalize homosexuality, and there are no laws that prohibit discrimination against a person on the basis of sexual orientation. Although no statistics were available, anecdotal evidence suggested there was some societal discrimination against gays and lesbians.

*Other Societal Violence or Discrimination.*—Although no statistics were available, anecdotal evidence suggested there was some societal discrimination against persons with HIV/AIDS.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without prior authorization, and workers exercised this right in practice. However, no law requires employers to recognize unions. Approximately 16 percent of the work force was unionized.

The organized unions generally maintained good relations with the government, the Employers' Federation, and the Chamber of Commerce and Industry. The opposition and some business leaders maintained that the established unions had become too closely tied to the government and had lost their independence. Union leaders disputed this view, however, noting that the current government was more proworker than the previous, opposition-led administration, but acknowledged that the government has tried to marginalize union leaders who did not toe the government line. The government promoted social dialogue with the labor unions and held regular meetings of the Social Partnership Council, which brings together labor, management, and government to jointly resolve labor management issues. Two recently-formed unions competed with existing unions for the right to represent dock workers and others.

The law provides for the right to strike, and workers exercised this right in practice; however, the Essential Services Act prohibits persons providing such services (defined as electricity, water, hospital, and police) from striking, unless they provide at least a 14-day notice to the authorities. The law prohibits retaliation against strikers, and it was effectively enforced in practice.

The law provides for establishment of an arbitration tribunal and a board of inquiry in connection with trade disputes and allows provision for the settlement of such disputes. Arbitration panels are formed on an ad hoc basis when a labor dispute arises and are not limited to labor disputes involving essential workers. The labor unions were generally satisfied with the working of the arbitration panels, which have tripartite representation.

*b. The Right to Organize and Bargain Collectively.*—The law permits unions to organize and bargain collectively, and the government protected these rights in practice; however, no law requires employers to recognize a particular union as an exclusive bargaining agent. There were no reports of antiunion discrimination. The law provides that if both parties consent to arbitration, the minister of labor can appoint an arbitration committee from the private sector to hear the matter.

The law protects workers from summary dismissal without compensation and provides for reinstatement or severance pay if unfairly dismissed. It also protects workers from dismissal for engaging in union activities and provides them with reinstatement rights if illegally dismissed.

There are no export processing zones, but there were a few industrial parks that functioned like an export processing zone, and unions were represented in those sites.

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

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum working age at 16, and workers may receive a national insurance card at that age. The Ministry of Labor monitored and enforced this provision, and employers generally respected it in practice. There were five labor officers in the labor inspectorate with responsibility for monitoring all labor issues and complaints. The ministry reported no child labor problems. The only known child labor was work on family-owned banana plantations, particularly during harvest time, or in family-owned cottage industries. The government operated Youth Empowerment, which provided training and increased job opportunities by employing young persons in government ministries for up to one year.

There was a growing problem of young people dropping out of school and becoming involved in the drug trade. Some children, including children as young as 14, reportedly were working in the marijuana fields common in the northern part of the country. The government tackled this problem by opening a number of new schools and providing additional educational opportunities to young people. The government has also launched a campaign to address the need to provide employment opportunities to young people to keep them from becoming involved in the drug trade.

*e. Acceptable Conditions of Work.*—The process of setting the minimum wage is tripartite and transparent. The Wages Council is supposed to meet every two years to review minimum wages and updated them in July 2008. Minimum wages vary by sector and type of work and are specified for several skilled categories. In agriculture the minimum wage for workers provided shelter was EC\$32 (\$11.85) per day; for industrial workers it was EC\$40 (\$14.81) per day. In many sectors, the min-

imum wage did not provide a decent standard of living for a worker and family, but most workers earned more than the minimum. Workers who receive less than the minimum wage can file a claim with the Labor Ministry's inspectors, who will investigate and, if warranted, refer the matter to arbitration. In practice the ministry received very few complaints concerning minimum wage violations but did receive complaints regarding wrongful dismissal.

The law prescribes hours of work according to category, such as industrial employees (40 hours per week), professionals (44 hours per week), and agricultural workers (30 to 40 hours per week). The law provides that workers receive time-and-a-half for hours worked over the standard workweek. There was a prohibition against excessive or compulsory overtime, which was effectively enforced in practice.

Legislation concerning occupational safety and health was outdated, and enforcement of regulations was ineffective. The law does not address specifically whether workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, but it stipulates conditions under which factories must be maintained. Failure to comply with these regulations would constitute a breach, which might cover a worker who refused to work under these conditions.

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## SURINAME

Suriname is a constitutional democracy, with a president elected by the unicameral legislature or by the larger United People's Assembly. The population is approximately 524,000. After generally free and fair elections in 2005, the New Front Plus government, consisting of a coalition of eight political parties, was formed. In 2005 the United People's Assembly reelected Ronald Venetiaan as president. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. However, there were problems in some areas, including overcrowded detention facilities; an overwhelmed judiciary with a large case backlog; lengthy pretrial detention; self-censorship by some media; governmental corruption; societal discrimination against women, minorities, and indigenous people; violence against women; trafficking in women, girls, and boys; and child labor in the informal sector.

### RESPECT FOR HUMAN RIGHTS

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

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

During the year authorities completed an internal affairs investigation into the August 2008 police shooting and killing of Charles Burleson, a detainee who escaped a pretrial detention cell in May 2008 while awaiting trial on charges of murder and armed robbery. The Attorney General's Office reviewed the case and did not prosecute.

There were no known developments, and none were expected, in the October 2008 police shooting and killing of an armed robbery suspect.

During the year authorities completed the investigation into the 2007 killing of Andy Aroma and forwarded the results to the Attorney General's Office. The Attorney General's Office reviewed the case and did not prosecute.

As mandated by the Inter-American Court of Human Rights' ruling on the 1986 killings of 39 Moiwana residents, the government provided a settlement payment to the Moiwana Foundation and entered its second phase of housing construction in Moiwana village.

The trial of former military head of state Desi Bouterse and his codefendants for the 1982 extrajudicial killing of 15 political opponents continued 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.*—While the law prohibits such practices, human rights groups and the media continued to express concern about mistreatment by police and prison officials and reported isolated incidents of abuse of prisoners by prison officials.

On December 24, mob violence in Albina occurred after a Brazilian man stabbed to death a Maroon man during a dispute. The violence, primarily directed towards Brazilian and Chinese migrants, resulted in at least three rapes. At year's end 20 persons, including a local official, were in custody on charges including rape, theft, and arson.

*Prison and Detention Center Conditions.*—Prison and detention center conditions were poor. There were three prisons, which held female and male prisoners separately. There were also 19 smaller jails, or temporary detention centers, in police stations throughout the country. Most of these facilities, particularly the older jails, were unsanitary and seriously overcrowded. As of October 17, the 19 jails and three prisons held 584 men and 30 women. At year's end the three main prisons and the main pretrial detention center that opened in December 2008 held 915 persons.

Violence among prisoners was common. In a letter addressed to an attorney's office in November, prisoners from the Santo Boma prison complained of inadequate food provisions, mistreatment by prison guards, limited ventilation, and a lack of rehabilitation programs.

Human rights organizations expressed concern about conditions in pretrial detention facilities, which remained overcrowded. Growing numbers of convicted prisoners were held in pretrial detention cells due to prison overcrowding. Due to staff shortages, police officers rarely permitted detainees to leave their cells. Detainees and human rights groups also alleged that meals were inadequate.

Conditions in the women's jail and prison facilities were generally better than those in the men's facilities. Following conviction, girls under age 18 were held in the women's detention center and in the women's section of one of the prison complexes.

There was one juvenile detention facility, Opa Doeli, for boys and girls under the age of 18. This facility, located in Paramaribo, was considered adequate, provided educational and recreational facilities, and was occupied to less than its maximum capacity. A separate wing of the detention facility held boys under age 18 convicted of serious crimes.

The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

The Welzijns Institute Nickerie, a nongovernmental organization (NGO) operating in the western district of Nickerie, visited and provided counseling for detainees in the youth detention center in that district. The institute continued a program to train prison officers to counsel detainees.

The government continued construction on the main pretrial detention center to improve conditions and reduce overcrowding. During the year the detention center absorbed pretrial detainees that were previously imprisoned in the 19 smaller jails around the country.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. Due to a shortage of judges, prisoners who appealed their cases often served their full sentences before the lengthy appeals process could be completed.

*Role of the Police and Security Apparatus.*—The armed forces are responsible for national security and border control, with the military police having direct responsibility for immigration control at the country's ports of entry. All elements of the military are under the control of the Ministry of Defense. Civilian police bear primary responsibility for the maintenance of law and order and report to the Ministry of Justice and Police.

Corruption remained a problem. The Personnel Investigation Department (OPZ), an office within the Police Department, investigates complaints against members of the police force. The OPZ received 189 complaints and launched 57 investigations into cases involving narcotics, bribery, and other types of police misconduct. In contrast to 2008, the OPZ received no reports of police abuse. Impunity was not a problem; during the year authorities relieved 23 police officers of duty for various offenses, six of whom were jailed.

Police effectiveness was hampered by a lack of equipment and training, low salaries, and poor coordination with military forces.

*Arrest Procedures and Treatment While in Detention.*—Individuals were apprehended openly with warrants based on sufficient evidence and brought before an independent judiciary. The law provides detainees with the right to a prompt judicial determination of the legality of the detention, and authorities respected this right in practice. Detainees were promptly informed of the charges against them. Police may detain for up to 14 days a person suspected of committing a crime if the sentence for that crime is longer than four years, and an assistant district attorney or a police inspector may authorize incommunicado detention. The police must bring the accused before a prosecutor to be charged formally within that period, but if additional time is needed to investigate the charge, a prosecutor and, later, a judge of instruction may extend the detention period an additional 150 days. There is no bail system. Detainees were allowed prompt access to counsel of their choosing, but

the prosecutor may prohibit access if the prosecutor thinks that this could harm the investigation. Detainees were allowed weekly visits from family members.

The average length of pretrial detention was 30 to 45 days for lesser crimes. Detainees were held in 19 overcrowded detention cells at police stations throughout the country. In accordance with the law, the courts freed most detainees who were not tried within the 164-day period. According to human rights monitors, factors such as a shortage of judges, large case loads, and large numbers of detainees caused trial delays.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, disputes over the appointment of judges undermined the independence of the judiciary. The attorney general and the president of the Court of Justice are appointed for life.

The judicial system consists of three lower courts, two specialized courts, and the Court of Justice as an appeals court. A military court system operates in cooperation with the civilian judicial system.

The Ministry of Justice and Police improved the functioning of the court system by addressing the long-standing shortage of judges. In July five new judges took their positions after completing the ministry's 5-year "Rechterlijke Ambtenaar in Opleiding" (Judicial Government Employee in Training) program in 2008. The former president of the Court of Justice was also sworn in as a judge, bringing the number of judges in the country to 20.

Other problems the judiciary faced included financial dependence on the Ministry of Justice and Police (and hence the executive branch), lack of professional court managers and case management systems to oversee the courts' administrative functions, and lack of physical space. These contributed to a significant case backlog. The courts required a minimum of six months to process criminal cases.

*Trial Procedures.*—The law provides for the right to a fair, public trial in which defendants have the right to counsel, and the judiciary generally enforced this right. All trials are public except for indecency offenses. There is no jury system. Defendants enjoy a presumption of innocence and have the right to appeal. Defendants have the right to be present and to consult an attorney in a timely manner. Defendants and their attorneys have access to government-held evidence. Defendants' attorneys can question witnesses and can present witnesses and evidence on the defendant's behalf. The courts assign private sector lawyers to defend indigent detainees. There were 138 court-assigned attorneys for both the civil and the penal system. The law extends the above rights to all citizens.

Military personnel generally are not subject to civilian criminal law. A member of the armed forces accused of a crime immediately comes under military jurisdiction, and military police are responsible for all such investigations. Military prosecutions are directed by an officer on the public prosecutor's staff and take place in separate courts before two military judges and one civilian judge. Due to the shortage of judges, military and civilian judges are selected from the same pool by the Court of Justice, which makes assignments to specific cases. A mechanism exists to prevent conflicts of interest. The military courts follow the same rules of procedure as the civil courts. There is no appeal from the military to the civil system.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Although there are separate procedures for civil processes, the same pool of judges is responsible for presiding over these procedures. There is access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Despite the installation of new judges during the year, the backlog in cases continued. Most civil cases were resolved approximately three to four years after being heard by the courts.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the government generally respected these prohibitions in practice. The law requires search warrants, which are issued by quasijudicial officers who supervise criminal investigations.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. The independent media were active and expressed a wide variety of views without restriction. Individuals could criticize the government publicly or privately without reprisal. There was one case reported to the Attorney General's Office of a newspaper journalist receiving anonymous threats after reporting on government investigations into police corruption.

Some media members continued to practice occasional self-censorship. This was due to a history of intimidation and reprisals by certain elements of the former military leadership or a response to pressure applied by senior government officials and important community leaders on journalists who published negative stories about the administration. In addition many news outlets were affiliated with particular political parties, which discouraged journalists from reporting on some news items. In July a newscaster from the program *Suriname Vandaag* alleged that the management had engaged in self-censorship on some of its political content. In contrast to previous years, there were no reports of government officials threatening libel actions against the media.

In October and November, the Bureau of Human Rights, under the authority of the Ministry of Justice and Police, conducted training for the media on recognizing human rights violations.

In October the government announced it would pay compensation to two broadcasting companies for the national army's destruction of their radio stations under the military dictatorship of Desire Bouterse in 1982.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that there were approximately 10 Internet users per 100 inhabitants in 2008. The population in the interior did not have equal access to the Internet due to limited infrastructure.

In August the Ministry of Justice and Police held a meeting with the Attorney General's Office; the Ministry of Transport, Communication and Tourism; TeleSur; the police commissioner; and Telecom Authority Suriname to discuss a government approach to gossip Web sites, which some officials saw as an invasion of individual privacy. The media expressed concerns that the government was attempting to limit political criticism.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination against members of religious groups, including anti-Semitic acts. There was a declared Jewish community of approximately 150 persons.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf](http://www.state.gov/j/drl/rls/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights. The occasion did not arise during the year for government cooperation with the Office of the UN High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Although the law does not address forced exile, the government did not use it.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. Its laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. Under special circumstances, persons may be granted refugee status, and in practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

*Elections and Political Participation.*—The constitution provides for direct election by secret ballot of the 51-member National Assembly no later than five years after

the prior election date. The National Assembly in turn elects the president by a two-thirds majority vote. If the legislature is unable to do so, the constitution provides that the United People's Assembly, composed of members of parliament and elected regional and local officials, shall elect the president. After generally free and fair elections in May 2005, the United People's Assembly reelected incumbent Ronald Venetiaan as president in August 2005. Political parties could operate without restriction or outside interference.

Historical and cultural factors as well as societal pressures and customs, especially in rural areas, particularly with respect to marriage and inheritance, inhibited equal participation by women in leadership positions in government and political parties. While women made limited gains in attaining political power, men continued to dominate political life. There were 13 women among the 51 members of the National Assembly and three women among the 17 ministers in the cabinet. During the year four women were sworn in as judges, increasing to five the number of women among the 20 sitting judges. The head clerk of the Court of Justice, that body's highest administrative position, was a woman.

Several factors traditionally limited the participation of Maroons (descendants of escaped slaves who fled to the interior to avoid recapture) and indigenous Amerindians in the political process, particularly the fact that their populations were concentrated in remote areas in the interior, removed from the country's centers of political activity. There was one Amerindian and three Maroon political parties during the 2005 election, and voters elected eight Maroons and one Amerindian to the National Assembly. The opportunity for Maroons to participate in the political process increased when the three Maroon parties formed a coalition (A-Combinatie) for the 2005 election and became part of the governing coalition. The A-Combinatie remained active during the year, with three Maroons in the cabinet and several others in decision-making positions.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. Long delays often occurred before corruption cases came to trial. The World Bank's worldwide governance indicators reflected that government corruption was a problem. The media frequently reported alleged corrupt practices with regard to the acquisition of land by one of the political parties in the governing coalition. In contrast to prior years, a shortage of police personnel did not hamper police investigations of fraud cases.

In September the police announced that 200 pounds of cocaine went missing from a storage vault at the arrest team's headquarters. The minister of justice and police terminated the command of the arrest team due to the incident. The OPZ suspended several arrest team officers and initiated an investigation.

On May 4, former minister of trade and industry Siegfried Gilds was sentenced to one year's imprisonment for his involvement in a money-laundering case and for bribing witnesses. Gilds allegedly laundered SR\$3.56 million (\$1.27 million) between 2003 and 2005. At year's end Gilds was serving his prison sentence pending the outcome of his appeal.

Public officials were not subject to financial disclosure laws. Various sections of the Ministry of Justice and Police, including the Fraud Police and the Attorney General's Office, were responsible for combating government corruption.

Although the law provides for public access to government information, such access was limited in practice for citizens and noncitizens, including foreign media. While almost every ministry has an information service, onerous bureaucratic hurdles made obtaining information difficult.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of independent domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. NGOs reported generally positive relationships with government officials, although occasionally officials were not responsive to their views. No international human rights groups operated in the country during the year.

A parliamentary commission on human rights continued operating throughout the year, but resource constraints hampered its effectiveness. Parliament also has a commission dealing with women's and children's rights.

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

The law prohibits discrimination based on race and ethnicity but does not address discrimination based on disability, language, or social status. Although the law does not specifically prohibit gender discrimination, it provides for protection of women's



rights to equal access to education, employment, and property. In practice various sectors of the population, such as women, Maroons, Amerindians, persons with HIV/AIDS, and gay and lesbian persons, suffered forms of discrimination.

*Women.*—In August the law criminalizing rape was amended to include spousal rape. The prescribed penalty for rape or forcible sexual assault ranges between 12 and 15 years' imprisonment. The government enforced the law effectively. Through November the Ministry of Justice and Police registered 27 cases of attempted rape and 68 cases of rape.

Violence against women was a common problem. The Ministry of Justice and Police registered 1,769 cases of domestic violence, an increase from 2008. The media attributed the increase in registered domestic violence cases to a greater awareness of domestic violence issues. On June 20, the National Assembly adopted the Law Combating Domestic Violence, which allowed for more severe punishments for offenders than had been available when prosecuting domestic violence cases under the assault law. Penalties range from four to eight years' imprisonment. The Bureau of Women and Children Policy, under the Ministry of Justice and Police, conducted an awareness campaign on domestic violence in cooperation with the Foundation Ilse Henar Hewith. In August the Bureau of Women and Child Policy trained government officials, social workers, and NGO staff on domestic violence issues. The Victim Assistance Bureau that opened in Paramaribo in December 2008 provided resources for victims of domestic violence and other crimes. It operated a satellite office in Nickerie, the country's second-largest city. There were four victims' rooms in police stations in Paramaribo and Nickerie, and police units were trained to deal with victims and perpetrators of sexual crimes and domestic violence. An NGO operated a shelter for victims of domestic violence.

Although the law prohibits sexual exploitation, including prostitution, in practice prostitution was tolerated and common (see section 6, Trafficking). Poverty continued to put young women at risk of being exploited for commercial sex. The presence of large groups of illegal workers in the gold mining sector in the interior drew young Maroon women and girls into commercial sexual exploitation. Police allowed many brothels to operate but made bimonthly checks on these establishments to monitor if women were being abused, held against their will, or having their passports retained by brothel owners to ensure fulfillment of work contract obligations.

While there was no specific legislation on sexual harassment, prosecutors could cite various penal code articles in filing sexual harassment cases. There were no reported court cases involving sexual harassment in the workplace during the year.

Access to information on contraception and skilled attendance during childbirth and in postpartum care were widely available. Couples and individuals have the right to decide the number, spacing, and timing of children, and have the information and means to do so free from discrimination. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Women have the legal right to equal access to education, employment, and property; nevertheless, societal pressures and customs, especially in rural areas, inhibited their full exercise of these rights, particularly with respect to marriage and inheritance. Societal pressures on families to have their daughters married at or near the legal age of marital consent frequently interfered with these girls' education and resulted in the direct passage of all property the women would have inherited from their parents to their husbands and parents-in-law in accordance with these customs.

Men and women generally enjoyed the same rights under property law and under the judicial system. The Bureau for Women and Children, under the Ministry of Justice and Police, worked to ensure the legal rights of women and children.

Women experienced discrimination in access to employment and in rates of pay for the same or substantially similar work. The government did not make specific efforts to combat economic discrimination.

The National Women's Movement, the most active women's rights NGO, continued assisting women in launching small home-based businesses, such as sewing and vegetable growing, and provided general legal help. The Women's Business Group advocated for business opportunities for women, while the Women's Parliament Forum advocated for opportunities in the public sector. Stop Violence against Women provided assistance to victims of domestic violence, including legal help with dissolving an abusive marriage. The Maxi Linder Foundation worked with prostitutes, including women and children who were victims of trafficking, and conducted outreach and informational sessions to inform victims about their rights. Resource constraints continued to limit the effectiveness of these groups.

*Children.*—Citizenship is derived by birth within the country's territory and from one's parents.

Physical and sexual abuse of children continued to be a problem.

During the year police received reports of 265 cases of sexual abuse of children, compared with 338 reported in 2008. The police Youth Affairs Office conducted three visits per week to different schools in the capital and the surrounding areas on a rotating schedule to provide outreach and raise awareness about child abuse and to solicit and investigate complaints. The Youth Affairs Office also raised awareness about sexual abuse, drugs, and alcohol through a weekly television program.

According to one study, more than 80 percent of children in Paramaribo, and an even greater percentage elsewhere, were exposed to violence. An estimated 10 percent of the victims developed post-traumatic stress syndrome as a result of serious mental and physical damage; in most cases victims lacked professional assistance from the government, according to research conducted in 2006 on behalf of the Ministry of Social Affairs and the UN Children's Fund (UNICEF).

Various laws were used to prosecute perpetrators of sexual abuse, and several cases of sexual abuse against minors came to trial. Sentences averaged three years in prison. In the capital there were several orphanages and one privately funded shelter for sexually abused children. In contrast to the previous year, there were no reports of sexual abuse of children in public institutions.

Although the legal age of sexual consent is 14, it was not enforced effectively. The marriage law sets the age of marital consent at 15 for girls and 17 for boys, provided parents of the parties agree to the marriage. Parental permission to marry is required up to age 21. The law also mandates the presence of a civil registry official to register all marriages.

Trafficking and commercial sexual exploitation of minors remained problems. On July 29, the criminal law was revised to include penalties against child prostitution. The maximum penalty is six years' imprisonment, and the maximum fine is SR\$100,000 (\$35,714). The law also prohibits child pornography, which has a maximum penalty of six years' imprisonment and maximum fine of SR\$50,000 (\$17,857).

UNICEF continued cooperating with the government in providing training to officials from various ministries dealing with children and children's rights. The government-operated "1-2-3" telephone hotline for children provided confidential advice and aid to children in need.

*Trafficking in Persons.*—The law prohibits all forms of trafficking in persons; however, the country was a source, transit, and destination country for men, women, and children trafficked for the purposes of forced labor and sexual exploitation. No reliable numbers were available indicating the magnitude of the problem.

There were reports that Chinese and Haitian men and women were trafficked to and through the country. Some Chinese men and women were forced to work in supermarkets, construction sites, and in the sex industry. Some Haitian migrants transiting the country were forced to work in the agricultural sector. NGOs expressed concern that local boys and girls, particularly Maroon children, were trafficked to the interior of the country for exploitative work, including sex work at gold mining sites. However, there were no reliable estimates as to the extent of the problem. At least one organized ring trafficked Brazilian women to gold mining sites in the country. There were allegations that other foreign women were trafficked to these sites for sex work and forced labor.

Trafficking was largely under the control of local criminal organizations, many of which were active in the sex industry. The most common victims of sex trafficking were women aged 18 to 23. Many victims were from Brazil and Guyana. Some traffickers lured victims to the country with promises of employment or job training. There were reports that minors from underprivileged areas were trafficked within the country for prostitution.

The penal code specifically prohibits trafficking in persons for both sexual and other purposes. The law covers both internal and external forms of trafficking. Penalties for trafficking in persons for sexual exploitation and labor exploitation, such as forced or bonded labor and involuntary servitude, range from five to 20 years' imprisonment. The Attorney General's Office may press dual charges against a trafficker for both the act of trafficking and for the rape of a victim. The penalty for rape or forcible assault ranges between 12 and 15 years in prison. The government provided free legal services to trafficking victims.

During the year authorities prosecuted six individuals for trafficking in persons; the trial of four other individuals was pending at year's end.

There were reports that government officials, including consular affairs, customs, and immigration officers, fostered an environment conducive to trafficking in persons by allowing individuals who were not bona fide visitors to enter the country.

On June 9, a judge sentenced a Dutch man and two Guyanese women who were arrested in September 2008 for trafficking an underage Guyanese girl and forcing her to work as a prostitute. The Dutch man received two years' imprisonment, one woman received 9 months' imprisonment and a SR\$3,000 fine (\$1,071), and the second woman received 18 months' imprisonment and a SR\$10,000 (\$3,571) fine. The two women appealed the decision. On December 22, they were released from prison after having served two-thirds of their sentences. The outcome of their appeal was pending at year's end.

The government's Antitrafficking Working Group, which has primary responsibility for interagency coordination of antitrafficking efforts, assessed progress and coordinated new actions. Police cooperated with counterparts in Guyana, Trinidad and Tobago, and the Dominican Republic, and justice officials sought improved mechanisms for cooperation with Colombia and French Guiana. The government requested the cooperation of Trinidad and Tobago and Curacao in investigating the case of 23 individuals trafficked to Trinidad and Tobago for forced labor. The government of Curacao cooperated in extraditing four individuals arrested in connection with the crime (see section 7.c.).

The Public Prosecutor's Office and the police continued a registry of all brothels and their employees by nationality. Although prostitution is illegal, the police had informal agreements with many brothel owners allowing them to operate. The Special Antitrafficking Police Unit conducted bimonthly checks to ensure that women were not mistreated, that no minors were present, and that owners did not keep the women's airline tickets or passports.

While there was no shelter designated solely for trafficking victims, the Foundation against Trafficking in Persons, a private organization mandated by the government to provide victim protection, arranged shelter and provided other services to both foreign and domestic victims.

Women arrested in brothel raids as immigration violators and who did not indicate they were trafficked were deported, but authorities sought to treat identified victims as material witnesses needing protection rather than as criminals. An NGO receiving government funding, the Maxi Linder Foundation, continued working with trafficking victims, providing counseling and rehabilitative training.

The government continued operating a trafficking-in-persons awareness campaign funded by the International Organization for Migration and focusing on the Chamber of Commerce, Youth Parliament, and the various districts.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—There are no laws prohibiting discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of state services. In general persons with disabilities suffered from discrimination when applying for jobs and services. Some training programs were provided for the blind and others with disabilities. There are no laws or programs to ensure that persons with disabilities have access to buildings. A judge may rule that a person with a cognitive disability be denied the right to vote, take part in business transactions, or sign legal agreements. A Ministry of Social Affairs working group remained responsible for protecting the rights of persons with disabilities but made limited progress during the year.

*National/Racial/Ethnic Minorities.*—The law prohibits discrimination on the basis of race or ethnicity, and no such discrimination complaints were filed during the year. Nonetheless, Maroons, who represent approximately 15 percent of the population, generally continued to be disadvantaged in the areas of education, employment, and government services. Most Maroons lived in the interior where limited infrastructure reduced their access to educational and professional opportunities and health and social services. Some forms of discrimination that affected indigenous Amerindians also extended to Maroons.

During the year some progress was made on the execution of the Inter-American Court of Human Rights' ruling on a 2006 case involving 12 Saramaccan clans who claimed authority over 60 villages in the Upper Suriname River area. In 2007 the court ruled that the government must recognize the collective land rights of the Saramaccan clans, draft legislation that complies with international treaties, establish a development fund of SR\$1,680,000 (\$600,000), and begin demarcation by February 2008. During the year the Saramacca Commission met with the Association of Saramaccan Leaders and prepared a draft report on implementation of the ruling. The Saramacca Commission established a private foundation to manage the development fund and reimbursed the clans for court costs. However, constitutional issues prevented demarcation of land claimed by ethnic groups. It was reported that the Inter-American Court of Human Rights did not take into account the presence

of non-Saramaccan groups in the area, including indigenous and Maroon tribes, which complicated the demarcation process. The deadline for implementation is December 19, 2010.

*Indigenous People.*—The law affords no special protection for, or recognition of, indigenous people. Most Amerindians (approximately 3 percent of the population) suffered disadvantages and had only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. The country's political life, educational opportunities, and jobs were concentrated in the capital and its environs, while the majority of Amerindians (as well as Maroons) lived in the interior, where government services were largely unavailable.

Because Amerindian and Maroon lands were not effectively demarcated, populations continued to face problems with illegal and uncontrolled logging and mining. Organizations representing Maroon and Amerindian communities complained that small-scale mining operations, mainly by illegal gold miners, dug trenches that cut residents off from their agricultural land and threatened to drive them away from their traditional settlements. Mercury runoff from these operations also contaminated and threatened traditional food source areas. Many Maroon and Amerindian groups also complained about the government granting land within their traditional territories to third parties, who sometimes prevented the villages from engaging in their traditional activities on those lands. There are no laws granting indigenous people rights to share in the revenues from the exploitation of resources on their traditional lands.

Indigenous groups, with the assistance of the Amazon Conservation Team, mapped their lands and presented proposed demarcation charts to the government in 2000 and to the Ministry of Physical Planning, Land, and Forestry Management in both 2006 and November 2009. At year's end, however, the government had not accepted the proposed demarcations, and the indigenous groups did not have official rights to the lands.

Maroon and Amerindian groups continued to cooperate with each other to exercise their rights more effectively. Moiwana and other NGOs continued to promote the rights of indigenous people.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Although the law prohibits discrimination based on sexual orientation, there were reports of employment discrimination against gay and lesbian persons. There were no reports of official discrimination based on sexual orientation in housing, access to education, or health care. Police neither perpetrated nor condoned violence against gays, lesbians, bisexuals, or transgender (LGBT) persons. LGBT organizations operated in the country independently and without restriction.

*Other Societal Violence or Discrimination.*—Persons with HIV/AIDS continued to experience societal discrimination in employment and medical services. An NGO working with HIV-infected persons reported that law enforcement agencies and the fire department conducted HIV testing as part of their hiring procedures. Catering establishments, casinos, and some private companies also reportedly demanded HIV tests prior to employment. The Mamio Foundation noted that individuals, mostly women, reported physical violence or discrimination after their HIV-positive status became known. Insurance companies allegedly denied services to HIV-positive clients, having identified their status via their medication histories.

The Ministry of Health continued its efforts to prevent mother-to-child transmission of HIV/AIDS through a comprehensive outreach program involving local health care providers. The program achieved its goal of voluntary testing of 90 percent of expectant mothers. The military continued its ongoing HIV/AIDS awareness program among troops. In October the Ministry of Defense unveiled a two-year plan to develop a workplace policy on HIV/AIDS awareness that included the development of a policy and protocols manual, free condom distribution, and training of peer educators, with the goal of reducing the risk of HIV/AIDS to military personnel and their families.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. Nearly 60 percent of the workforce was organized into unions, and most unions belonged to one of the country's seven major labor federations. Unions were independent of the government but played an active role in politics.

The law provides for the right to strike, and workers in both the public and private sectors exercised this right in practice.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law, and the government generally enforced this right in practice. Collective bargaining agreements covered approximately 50 percent of the labor force. The law prohibits employer interference in union activities, and in practice it did not occur.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits all forms of forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 6, Trafficking).

On April 2, the International Organization for Migration repatriated eight of 11 individuals to Indonesia after it was reported in December 2008 that they were brought to the county under false pretenses and made to work in poor conditions without pay. The remaining three decided to stay in the country and return to work for the employer.

The trial of two individuals arrested after allegedly recruiting 23 men for a cooking course in Trinidad and Tobago and then providing them as forced labor upon arrival in that country continued at year's end. During the year an additional four persons were arrested in Curacao and extradited to Suriname, where they were awaiting trial at year's end.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum age for most types of employment at 14 years and restricts working hours for minors to day shifts but does not limit the number of hours minors can work. Children younger than 14 are allowed to work only in a family-owned business, small-scale agriculture, and special vocational work. The law does not define the worst forms of child labor. Children younger than 18 are prohibited from doing hazardous work, defined as work dangerous to their life, health, and decency. Children under the age of 15 are not permitted to work on boats. However, the Ministry of Labor and the police enforced the law sporadically, and child labor remained a problem in the informal sector, especially in the western districts of Nickerie and Saramacca, as children faced increasing economic pressure to discontinue their education to seek employment.

Children under 14 worked in gold mines, in informal urban sectors, and reportedly in the commercial sex industry. Employers in these sectors did not guarantee work safety, and children often worked barefoot and without protective gloves or access to medical care. There was a lack of statistical data on the labor environment and child labor situation in the country. In contrast to 2008, there were no reports of commercial sexual exploitation of children and teenagers by caretakers and older recruiters.

The Ministry of Labor's Department of Labor Inspection, with 75 inspectors, has responsibility to implement and enforce labor laws; however, enforcement was inadequate. Inspectors visited private sector companies throughout the country, but no data was available regarding the number of inspections performed during the year. Employers were required to maintain a Register of Young Persons that includes each employee's information. Employing a child less than 14 years of age is punishable by fines and up to 12 months in prison. Parents who permit their children to work in violation of labor laws may also be prosecuted. The government did not investigate exploitive child labor cases outside urban areas. Labor inspectors were not authorized to conduct inspections in the informal sector as responsibility for controlling the informal sector lies with the police.

Although the government provided no programs to remove children from the worst forms of child labor, it supported vocational programs for dropouts and older children to serve as an alternative to underage labor.

On November 20, the National Commission for the Eradication of Child Labor became active. Members included officials from the ministries of labor, social affairs, and education, as well as representatives from labor unions, the private sector, and NGOs. The commission's mandate includes formulating national policy regarding the eradication of child labor, initiating specific programs for indigenous children, developing a list of occupations involving the worst forms of child labor, and monitoring the country's compliance with international child labor standards.

*e. Acceptable Conditions of Work.*—There is no legislation providing for a minimum wage. The lowest wage for civil servants was approximately SR\$600 (\$214) per month, including a cost of living allowance, which did not provide a decent standard of living for a worker and family. Government employees, who constituted approximately 50 percent of the 100,000-member workforce, frequently supplemented their salaries with second or third jobs, often in the informal sector. The president and the Council of Ministers set and approved civil service wage in-

creases. During the year the government implemented the first phase of a new civil servant wage system, which increased wages for many civil servants.

Work in excess of 45 hours per week on a regular basis requires special government permission, which was granted routinely. Such overtime work earned premium pay. The law prohibits excessive overtime and requires a 24-hour rest period per week.

The government sets occupational health and safety standards, and a 10- to 12-member inspectorate in the Occupational Health and Safety Division of the Ministry of Labor is responsible for enforcing occupational safety and health regulations, but it did not make regular inspections. 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.

## TRINIDAD AND TOBAGO

Trinidad and Tobago is a parliamentary democracy governed by a prime minister and a bicameral legislature, with a population of approximately 1.3 million. Tobago has a House of Assembly that has some administrative autonomy over local matters on that island. In the 2007 elections, which observers considered generally free and fair, Prime Minister Patrick Manning's People's National Movement (PNM) secured a 26- to 15-seat victory over the United National Congress (UNC). Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas: police killings during apprehension or custody, inmate illness and injuries due to poor prison conditions, high-profile cases of alleged bribery, violence against women, inadequate services for vulnerable children, and unsafe working conditions.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government or its agents did not commit any politically motivated killings; however, 46 persons died during the year while in police custody or at the hands of law enforcement officers. Authorities investigated or opened inquests into some of the killings, but only 6 percent of inquiries into police killings of civilians have been completed since 1999. In cases where charges were brought, 50 percent of the officers were acquitted.

On January 23, a police officer shot and killed George Ashby. Friends and family of the deceased protested for two days until police officials promised an investigation. At year's end, no formal finding had been made in the case, and the police officer remained on active duty.

On October 1, police officers shot four men suspected of murder when they saw them in a vehicle. The shots killed three men; the survivor claimed that the police targeted the men because they were suspects in previous cases. Police began an initial investigation of the incident, but by year's end the Director of Public Prosecution had not decided whether to conduct a full inquiry.

There were no reported developments in the inquiries into the 2008 police killings of Mustapha Edwards, Karim Saint Aimee, and Russel Samuel. Authorities took no action following a June 2008 forensics report that found no gunshot residue on any of the four men killed by police in 2007 while sitting in a vehicle in Laventille.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and the law prohibit such practices, there were credible reports that police officers and prison guards mistreated individuals under arrest or in detention.

*Prison and Detention Center Conditions.*—Conditions in the prison system's eight facilities were somewhat upgraded but continued to be difficult. The designed capacity of the prisons was 4,380 inmates, and they held approximately 4,000 prisoners at year's end. However, some prisons suffered from extreme overcrowding, while others had not reached full capacity. The Port of Spain prison, originally designed to accommodate 250 inmates, held 506 prisoners, compared with 528 in 2008. At peak times, up to 10 prisoners were kept in 10- by 10-foot cells. The maximum security prison, designed to accommodate 2,453 inmates, held 1,273. Inmates complained of insufficient medical care for illness and injuries. No new prisons were constructed during the year, but one facility was converted into a detention center for illegal immigrants. It had an intended capacity of 150 and held 46 persons at year's end.

Pretrial detainees were held separately from convicted prisoners. There were 1,403 inmates awaiting trial, compared with 1,595 at the end of 2008. However, convicted prisoners often were held in the remand section until they exhausted their appeals. Since there is no female youth facility, some underage female prisoners were placed in the Golden Grove women's prison. Of the 158 female prisoners, 50 awaited trial at year's end. Although conditions at the women's prison were better than those in Port of Spain prison, it occasionally became overcrowded, since it held both women on remand and those serving prison sentences.

The minister of national security told Parliament that corrupt prison guards were complicit in the smuggling of cell phones to prisoners. Prison authorities reported bringing charges against 40 prison officers for assault and battery or for poor conduct on the job, including possession of narcotics and provision of cell phones to inmates.

On October 2, a High Court judge awarded damages of TT\$243,848 (\$41,000) to a former inmate who was beaten by a group of prison officers in 2008 while serving a 30-month sentence. The judge described the attack as "depraved and inhumane treatment" and stated that the conduct of the officers involved was "oppressive, arbitrary, and unprofessional."

At year's end a trial was pending of a police constable charged with the March 2008 rape of a woman who visited the Arouca police station to inquire about a domestic violence report.

An army and a police investigation continued into the March 2008 alleged rape at gunpoint by two soldiers of a woman who had sneaked into a military camp to visit another soldier.

The government permitted prison visits by independent human rights observers upon approval of the Ministry of National Security; however, there were no such requests during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and the law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

On October 8, a High Court judge awarded 22-year-old Shastri Ramnarine TT\$50,000 (\$8,000) in compensation for unlawful detention in 2005 associated with murder charges on which he was ultimately acquitted.

*Role of the Police and Security Apparatus.*—The Ministry of National Security oversees the police service, immigration division, prison service, and defense force. The police service maintains internal security, while the defense force is responsible for external security but also has certain domestic security responsibilities. An independent body, the Police Service Commission, makes hiring and firing decisions in the police service, and the ministry has little direct influence over changes in senior positions. The commission criticized the police force for insubordination, absenteeism, and failure to appear in court to testify; it also noted persistent public complaints of police unresponsiveness.

The national police force comprises nine divisions, including 17 specialized branches, with approximately 5,000 members. The Police Service Commission, in consultation with the prime minister, appoints a commissioner of police to oversee the police force. Municipal police under the jurisdiction of 14 regional administrative bodies supplement the national police force. The Special Anticrime Unit, composed of both police and defense force personnel, combats violent crime—including kidnappings for ransom—and carries out other security operations.

Police corruption continued to be a problem, with some officials suggesting there were officers who participated in corrupt and illegal activities. Authorities suspended 29 officers on corruption charges during the year.

The Police Complaints Authority receives complaints about the conduct of police officers for transmittal to the Complaints Division of the Police Service, where uniformed officers investigate them. The authority monitors the division's investigations and its disciplinary measures. Police Service Commission restrictions limited the division's ability to dismiss police officers. The public had little confidence in the police complaints process because the authority had no power to investigate complaints and because those investigating complaints against the police were themselves police officers.

In August the Criminal Investigation Unit carried out an investigation of the St. Joseph Police Station after four unregistered firearms and a quantity of narcotics were discovered in the office of a senior officer. Following the incident, authorities transferred 38 officers to other police stations and continued their investigation at year's end.

*Arrest Procedures and Treatment While in Detention.*—A police officer may arrest a person based on a warrant issued or authorized by a magistrate or without a warrant if the officer witnesses the commission of an alleged offense. Detainees, as well

as those summoned to appear before a magistrate, must appear in court within 48 hours. In the case of more serious offenses, the magistrate either commits the accused to prison on remand or allows the accused to post bail, pending a preliminary inquiry. Detainees were granted immediate access to a lawyer and to family members.

There is a functioning bail system. Persons charged with murder, treason, piracy, kidnapping for ransom, and hijacking, as well as persons convicted twice of violent crimes, are ineligible for a period of 60 days following the charge. However, a judge may still grant bail to such persons under exceptional circumstances. Where bail was refused, magistrates advised the accused of their right to an attorney and, with few exceptions, allowed them access to an attorney once they were in custody and prior to any interrogation.

The minister of national security may authorize preventive detention in order to preclude actions prejudicial to public safety, public order, or national defense, in which case the minister must state the grounds for the detention. There were no reports that the authorities abused this power.

Lengthy pretrial detention resulting from heavy court backlogs and inefficiencies in the judicial system continued to be a problem. Many persons under indictment waited months, if not years, for their trial dates in the High Court. An added inefficiency resulted from the legal requirement that anyone charged and detained must appear in person for a hearing before magistrate's court every 10 days, if only to have the case postponed for an additional 10 days, pending conclusion of the investigation. Officials cited an increase in the number of arrests and an antiquated note-taking system in most magistrate's courts as explanations for the backlog.

*e. Denial of Fair Public Trial.*—The constitution and the law provide for an independent judiciary, and the government generally respected this provision in practice. Although the judicial process was generally fair, it was slow due to backlogs and inefficiencies. Additionally, prosecutors as well as judges stated that witness intimidation increased.

The judiciary is divided into the Supreme Court of Judicature and the magistracy. The Supreme Court is composed of the High Court and a Court of Appeal. The magistracy includes the summary courts and the petty civil courts.

*Trial Procedures.*—Magistrates try both minor and more serious offenses, but in the case of more serious offenses, the magistrate must conduct a preliminary inquiry. Trials are public, and juries are used in the High Court. Defendants have the right to be present, are presumed innocent until proven guilty, and have the right to appeal. All defendants have the right to consult with an attorney in a timely manner. An attorney is provided at public expense to defendants facing serious criminal charges, and the law requires provision of an attorney to any person accused of murder. Although the courts may appoint attorneys for indigent persons charged with serious crimes, an indigent person may refuse to accept an assigned attorney for cause and may obtain a replacement. Defendants can confront or question witnesses against them, can present witnesses and evidence on their own behalf, and have access to government-held evidence relevant to their cases.

Both civil and criminal appeals may be filed with the Court of Appeal and ultimately with the Privy Council in the United Kingdom.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The constitution and the law provide for an independent and impartial judiciary in civil matters, and citizens are free to file lawsuits against civil breaches, in both the High Court and petty civil court. The High Court may review the decisions of lower courts, order parties to cease and desist from particular actions, compel parties to take specific actions, or award damages to aggrieved parties. However, the petty civil court is authorized to hear only cases involving damages of up to TT\$15,000 (approximately \$2,500).

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

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

*a. Freedom of Speech and Press.*—The constitution and the law provide for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

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



net, including by e-mail. According to the International Telecommunication Union, there were 17 Internet users per 100 inhabitants in 2008.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and the law provide for freedom of assembly and association, and the government generally respected these rights in practice.

In April, before the Fifth Summit of the Americas, the police denied permission for a group calling itself the People's Summit to demonstrate at the heads of government meeting, citing security concerns. The police did not interfere when the group rallied outside of the established security perimeter.

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

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was extremely small.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and various laws provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits forced exile, and it was not used.

*Protection of Refugees.*—Although the government acceded to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, it had not passed legislation to implement its obligations under the convention. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government placed asylum seekers in the care of the Living Water Community (LWC), a local Catholic social services agency, while their cases were reviewed by the UNHCR and final resolution reached. Pending Parliament's approval of legislation implementing the UN convention and its protocol, the Ministry of National Security's Immigration Division handled all requests for asylum on a case-by-case basis.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular political group, or political opinion. However, it took as long as four years for the government to provide identification cards or work permits to persons granted refugee status, due to a lengthy bureaucratic process.

The government did not provide temporary protection to persons who may not qualify as refugees. The LWC provided such persons with needed social services and reported in November that 67 previously filed asylum applications were still pending and that 63 new applications had been filed during the year. The government recognized only five persons as refugees.

In February migrants from Ghana, Senegal, and Nigeria staged a hunger strike at the Maximum Security Prison, calling for the government to pay for their return home. On October 22, the Ministry of National Security chartered a plane to return 52 migrants to Africa, with stops in Accra and Lagos. The ministry provided migrants from other countries plane tickets to their home countries from Lagos or Accra.

On November 11, the government opened a detention center to hold undocumented immigrants, except those facing criminal charges, who were formerly held in prison. The detention center can only accommodate men, and undocumented female immigrants continued to be held in prison. The facility can support approximately 150 persons pending deportation or other means of return to their countries.

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

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

*Elections and Political Participation.*—Observers found the 2007 national elections to be generally free and fair. However, during the campaign period, there were incidents of vandalism and violence. A plurality of voters supported the PNM, which retained control of the government. The two major political parties are the PNM, which is primarily but not exclusively Afro-Trinidadian, and the UNC, which is pri-

marily but not exclusively Indo-Trinidadian. A third party formed in 2006, the Congress of the People, failed to win any seats in the latest election.

For the fourth consecutive year, the government postponed local elections. In spite of the constitutional mandate that local elections be held every three years, the last such election was held in 2003. The government asserted as its reason that the review of the municipal boundaries and other local government reforms were yet to be completed.

Voters elected the 41-member House of Representatives, and there is an appointed Senate composed of 31 persons. Of the 72 persons in both houses of Parliament, 24 were women; there were 11 women in the 28-member cabinet and 10 female judges among the 34 judges on the High Court and the Court of Appeals.

All major political parties reached out to voters from relatively small ethnic minorities, such as the Chinese, Syrian, Lebanese, and European-origin communities, and members of these groups held important positions in government. There were no members of these minorities in the legislature or in the cabinet.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. However, the World Bank's worldwide governance indicators reflected that government corruption was a problem. Authorities suspended 29 police officers on corruption charges during the year (see section 1.c.).

The Integrity in Public Life Act mandates that public officials disclose their assets, income, and liabilities to an Integrity Commission. However, at year's end there was no functioning Integrity Commission, because all five members the president appointed in April resigned. This followed the February resignation of the five original appointees, after a judge ruled that they acted in bad faith and were guilty of misfeasance in public office. Critics charged that the commission lacked credibility as it was often used as a political tool. In the past, officials and candidates for public office were reluctant to comply with asset disclosure rules due to fear of kidnappings for ransom. The act does not address public officials' reluctance to disclose assets, and there was no progress toward amending it.

In May the Director of Public Prosecutions launched an investigation to determine whether the prime minister and his PNM party breached the Prevention of Corruption Act or other provision of the law in regard to an alleged agreement with the organization Jamaat al Muslimeen prior to the 2002 general elections. Unconfirmed reports circulated that the group's leader Yasin Abu Bakr agreed to support the prime minister's party in exchange for a promise that his property would not be seized to pay a state debt. In October a High Court judge ruled that 10 of Abu Bakr's properties be auctioned off to pay the debt to the government.

In January a commission of inquiry into the construction industry commenced hearings to review 2008 allegations involving activities of the state-owned Urban Development Company. The commission resumed meetings in December and was asked to present its final report by February 28, 2010.

In April 2008 the Privy Council ordered a new trial for UNC Party Chairman and Parliamentary Opposition Leader Basdeo Panday, stemming from his 2006 conviction for failing to disclose a London bank account. However, the trial had not begun by year's end.

The Freedom of Information Act provides for public access to government documents, upon application. Critics charged, however, that a growing number of public bodies have been exempted from the act's coverage, which the government claimed was necessary to reduce the volume of frivolous requests.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

The ombudsman investigates citizens' complaints concerning the administrative decisions of government agencies. Where there is evidence of a breach of duty, misconduct, or criminal offense, the ombudsman may refer the matter to the appropriate authority. The ombudsman has a quasi-autonomous status within the government and publishes a comprehensive annual report. Both the public and the government had confidence in the integrity and the reliability of the office of the ombudsman and the ombudsman's annual report.

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

The government generally respected in practice the constitutional provisions for fundamental human rights and freedoms for all without discrimination based on race, origin, color, religion, social status, or gender.

*Women.*—Rape, including spousal rape, is illegal and punishable by up to life imprisonment, but the courts often handed down considerably shorter sentences. The government and nongovernmental organizations (NGOs) reported that many incidents of rape and other sexual crimes were unreported, partly due to perceived insensitivity on the part of the police. One group, the Rape Crisis Society, stated that it provided services to 62 new rape victims and 91 returning victims. The Crime and Problem Analysis Branch of the police service reported that there were 231 cases of rape during the year, 71 of which resulted in prosecution and conviction. There were 326 rape investigations under way at year's end, including many from prior years.

Many community leaders asserted that abuse of women, particularly in the form of domestic violence, continued to be a significant problem. The law provides for protection orders separating perpetrators of domestic violence, including abusive spouses, from their victims. Abusive spouses can also be fined or imprisoned. While reliable national statistics were not available, women's groups estimated that from 20 to 25 percent of all women suffered abuse.

The NGO Coalition Against Domestic Violence charged that police were often lax in enforcing domestic violence laws and asserted that rape and sexual abuse against women and children remained a significant problem.

The Division of Gender Affairs (DGA) in the Ministry of Community Development, Culture, and Gender Affairs operated a 24-hour hotline for victims of rape, spousal abuse, and other violence against women, referring callers to eight shelters for battered women, a rape crisis center, counseling services, support groups, and other assistance.

Prostitution is illegal, and the authorities continued to monitor, investigate, and prosecute major operators believed to be engaged in soliciting for prostitution.

No laws specifically prohibit sexual harassment. Although related statutes could be used to prosecute perpetrators of sexual harassment, and some trade unions incorporated antiharassment provisions in their contracts, both the government and NGOs continued to suspect that many incidents of sexual harassment went unreported.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for HIV/AIDS and sexually transmitted diseases.

Women generally enjoyed the same legal rights as men, including employment, education, and inheritance rights. No laws or regulations require equal pay for equal work. While equal pay for men and women in public service was the rule rather than the exception, both the government and NGOs noted considerable disparities in pay between men and women in the private sector, particularly in agriculture.

Civil service regulations require female civil servants to report their marriages to the Public Service Commission. The government argued that this was merely an administrative device to account for name changes. However, the Committee of Experts of the International Labor Organization (ILO) recommended that the government amend its regulations to include such reporting from both men and women who marry while in the public service.

The DGA had primary government responsibility for protecting women's rights and women's advancement and sponsored income-generation workshops for unemployed single mothers, nontraditional skills training for women, and seminars for men on redefining masculinity.

*Children.*—Children acquire nationality by birth; every person born in the country is a citizen at the date of birth, unless the parents are foreign envoys accredited to the country. Children born outside the country can become citizens at birth if on that date one or both of the parents is, or was, a citizen. The Births and Deaths Registration Act provides that every child born alive must be registered within 42 days of birth.

The Domestic Violence Act provides protection for children abused at home. The Ministry of Education's Student Support Services Division reported that young school children were vulnerable to rape, physical abuse, and drug use and that some had access to weapons or lived with drug-addicted parents. Abused children re-

moved from the home were first assessed at a reception center for vulnerable children and then placed with relatives, government institutions, or NGOs. According to the Rape Crisis Society, there were 28 child sexual abuse cases, a decrease from 81 cases in 2008. The Coalition against Domestic Violence operated Childline, a free and confidential telephone hotline for at-risk or distressed children and young persons up to age 25. During the year Childline received 13,864 calls, 62 percent from females and 38 percent from males.

Several children were abused in their own homes or in institutional settings. On August 5, authorities charged a woman for allegedly burning a 10-year-old child's hand in a hot pot of rice. The child, who lived with her father, was staying at the woman's home while her father worked. The woman pleaded not guilty and was granted TT\$12,500 (\$2,100) bail. The case was pending at year's end.

The law defines a child as less than 18 years of age, outlaws corporal punishment for children, and prohibits sentencing a child to prison. The legal age for marriage is 18 for both men and women. However, in practice the minimum legal age for marriage is determined by the distinct laws and attitudes of the various religious denominations. Under the Muslim Marriage and Divorce Act, the minimum legal age for marriage is 16 for men and 12 for women; the Hindu Marriage Act and the Orisa Marriage Act set the minimum legal age for marriage at 18 for men and 16 for women.

Statutory rape is illegal under the Sexual Offenses Act. The age of sexual consent is 16 years for males and females; however, this does not apply if the parties are married. Persons found guilty of rape can be sentenced from 12 years to life in jail.

Child pornography is illegal, and penalties for pornographers include a fine of TT\$ 2,000 (\$330) and four months' imprisonment.

*Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, but perpetrators could be prosecuted under several related laws. The government made significant efforts to counter the possibility of trafficking and continued to state that trafficking of its citizens did not occur and that trafficking was not a major problem. However, occasional media reports asserted that some trafficking occurred, and there were five reported trafficking cases in Trinidad involving Colombian women.

The Sexual Offenses Act prohibits procurement of a person for the purpose of sexual intercourse or to work in a brothel. It also states that procurement of minors for prostitution or sexual offenses is punishable with penalties up to life imprisonment if the child is under 14 years of age. The Kidnapping Act provides that if a person takes, entices away, abducts, seizes, or detains any person without his consent, or with his consent obtained by fraud or duress, or if a person is held, confined, restricted or imprisoned without lawful excuse; the one who performs these acts commits an offense. Penalties for violations of these laws range from seven years' to life imprisonment. There were no prosecutions under these laws during the year.

The government has worked with the International Organization for Migration (IOM) since 2006 for training and data-sharing, and held a joint workshop on trafficking jointly with the IOM and the government of Colombia, source of some trafficking victims. The IOM has an office within the Ministry of National Security's Immigration Division.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—There are no statutes either prohibiting discrimination on the basis of disability or mandating equal access for persons with disabilities to the political process, employment, education, transportation, housing, health care, or other citizen services. The labor minister publicly called upon employers both in the private and public sectors to end discriminatory practices against persons with disabilities and to create inclusive work environments.

In practice persons with disabilities faced discrimination and denial of opportunities in the form of architectural barriers, employer reluctance to make necessary accommodations that would enable otherwise qualified job candidates to work, an absence of support services to assist children with special needs to study, lowered expectations of the abilities of persons with disabilities, condescending attitudes, and disrespect. According to the NGO Disabled People's International (DPI), an estimated 16 percent of the population had some form of disability, although no census data were available. The government provided some funding to NGOs such as the DPI.

*National/Racial/Ethnic Minorities.*—The country is racially and ethnically diverse, with Afro-Trinidadians and Indo-Trinidadians each accounting for approximately 40 percent of the population.

*Indigenous People.*—A very small group of persons identified themselves as descendants of the country's original Amerindian population. The government effectively protected their civil and political rights, and they were not subject to discrimination.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Although the law criminalizes consensual homosexual relations, providing penalties of up to 10 years' imprisonment, the government generally did not enforce such legislation.

The Equal Opportunities Act does not specifically include lesbians, gays, bisexual, or transgender (LGBT) persons. LGBT rights groups reported that there remained a stigma related to sexual orientation in the country.

*Other Societal Violence or Discrimination.*—HIV/AIDS was viewed as a significant medical concern for the government and society. Incidents of violence against this group were usually isolated events, and the Ministry of Labor partnered with the ILO to launch an HIV antidiscrimination program in the workplace.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including those in state-owned enterprises, may form and join independent unions of their own choosing without prior authorization. The law also provides for the mandatory recognition of a trade union when it represents 51 percent or more of the workers in a specified bargaining unit. The government's Registration and Certification Board, however, determines whether a given workers' organization meets the definition of a bargaining unit and can limit union recognition by this means. The Industrial Relations Act (IRA) does not recognize domestic workers (maids, chauffeurs, gardeners, etc.), and they do not have the right to join a union. The government was consistently unwilling to negotiate with public sector unions and refused to amend its legislation on "essential services" and collective bargaining to conform to ILO conventions.

According to the National Trade Union Center, one of two umbrella organizations in the labor movement, 22 to 24 percent of the workforce was organized in approximately 25 active unions. Most unions were independent of government or political party control, although the Sugar Workers' Union historically aligned itself with the UNC.

The law allows unions to conduct their activities without interference; however, there were heavy restrictions on strikes. Employees in essential services, such as police and teachers, do not have the right to strike, and walkouts can bring punishment of up to 18 months in prison. These employees negotiate with the government's chief personnel officer to resolve labor disputes. The IRA stipulates that only strikes over unresolved interest disputes may take place and that strikes may be prohibited at the request of one party if not called by a majority union.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to participate in collective bargaining, although there were heavy restrictions on the practice. According to the International Trade Union Confederation, collective bargaining was restricted by the requirement that, to obtain bargaining rights, a union must have the support of an absolute majority of workers. Furthermore, collective agreements must be for a minimum of three years, making it almost impossible for workers on short-term contracts to be covered by such agreements.

The law mandates that workers illegally dismissed for union activities must be reinstated. A union also may bring a request for enforcement to the Industrial Court, which may order employers found guilty of antiunion activities to reinstate workers and pay compensation or may impose other penalties, including imprisonment.

During the year the government-owned Telecommunication Services of Trinidad and Tobago (TSTT) suspended 30 employees without pay after they delivered a petition calling for pay increases. The company applied to the Industrial Court to declassify the bargaining union on the grounds of improper industrial action but later withdrew the complaint after government intervention.

The Public Transport Service Corporation (PTSC) moved to terminate negotiation rights to the Transport and Industrial Workers Union representing bus drivers after a bus strike in September.

On October 15, the government intervened to stop TSTT, a statutory corporation, and PTSC, a state enterprise, from requesting decertification of two recognized bargaining unions.

There are several export processing zones, where the same labor laws are in effect as in the rest of the country.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law does not specifically prohibit forced or compulsory labor, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—A 2007 law sets the minimum age for employment in public and private industries at 16. However, children ages 14 to 16 may work in activities in which only family members are employed or that have been approved as vocational or technical training by the minister of education. Children under the age of 18 are prohibited from working between the hours of 10 p.m. and 5 a.m. except in a family enterprise or within other limited exceptions. One such exception permits children from 16 to 18 to work at night in sugar factories, but sugar production all but ended in 2007. Violation of these regulations is punishable by fines. Although there was no significant evidence of children working, the government acknowledged that street children did work.

The Ministry of Labor and Small and Micro Enterprise Development and the Ministry of Social Development are responsible for enforcing child labor laws. The government trained 19 inspectors to identify cases of child labor. The minister of labor may designate an inspector to gather information from parents and employers regarding the employment of a person under the age of 18. The Industrial Court may issue a finding of contempt on anyone obstructing the inspectors' investigation.

The Ministry of Social Development continued to implement its Revised National Plan of Action for Children, which includes specific goals for combating commercial sexual exploitation of children and exploitive child labor. The government also participated in a regional initiative to combat the worst forms of child labor, implemented by the ILO's Program for the Elimination of Child Labor. However, the government did not have comprehensive mechanisms for receiving, investigating, and resolving child labor complaints. Consequently, it was unclear how many complaints related to child labor were received and if any children who work might have been involved in exploitive labor situations.

*e. Acceptable Conditions of Work.*—The Ministry of Labor has a tripartite minimum wage committee, with input from trade unions and private sector leaders. The committee provides a recommendation for setting the minimum wage, which then is brought to cabinet by the minister. The national minimum wage was TT\$9 (approximately \$1.45) per hour, which did not provide a decent standard of living for a worker and family. The government provided limited food assistance for poor families through a conditional cash transfer program. Actual wages varied considerably among industries.

The law establishes a 40-hour workweek, a daily period for lunch or rest, and premium pay for overtime. The law does not prohibit excessive or compulsory overtime.

Health and safety regulations apply to all workers, regardless of citizenship. Foreign laborers brought into the country were generally protected by local labor laws, a stipulation usually contained in their labor contract. In October some of the 3,000 Chinese workers in the country protested the way payments were handled by their Chinese employers, who claimed the workers agreed in advance that the last two paychecks would be provided once the worker returned to China.

The law protects workers who file complaints with the labor ministry regarding illegal or hazardous working conditions. If complainants refuse to comply with an order that would place them in danger, and if it is determined upon inspection that hazardous conditions exist in the workplace, the complainants are absolved from blame.

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## URUGUAY

The Oriental Republic of Uruguay, with a population of approximately 3.4 million, is a constitutional republic with an elected president and a bicameral legislature. On November 29, in a free and fair runoff election, Jose Mujica won a five-year presidential term and a majority in parliament. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the rights of its citizens. Prison conditions continued to be poor. Instances of violence against women and discrimination against some societal groups continued to challenge government policies of non-discrimination. Some trafficking in persons occurred.

## RESPECT FOR HUMAN RIGHTS

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

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

The government continued to investigate the serious human rights violations committed during the 1973-85 military dictatorship. Former military dictator, Gregorio Alvarez, and the democratically elected president in office during the first years of the military rule, Juan Maria Bordaberry, were both convicted and sentenced to 25 to 30 years in prison for coauthoring aggravated homicides and disappearances. Alvarez was serving his sentence in a military prison, and Bordaberry was under house arrest due to poor health.

In August 2008 the Office of the Prosecutor requested an extended sentence for imprisoned former foreign minister Juan Carlos Blanco based on new charges regarding his alleged complicity in the forced disappearance of teacher Elena Quinteros, kidnapped by military forces from the compound of the Venezuelan Embassy in Montevideo in 1976. In July Blanco appealed to the Inter-American Commission on Human Rights (IACHR) for temporary release as a presumed innocent presenting little flight risk. There was no known IACHR response to Blanco's request by year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, the UN special rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, Manfred Nowak, reported that during his March visit to the country, he received "credible allegations of ill-treatment and excessive use of force in prisons, police stations, and juvenile detention centers."

*Prison and Detention Center Conditions.*—Prison conditions continued to be poor as aging facilities were not adequately maintained. Overcrowding continued to be a problem despite the government's efforts to build more prison facilities. According to government figures, the total prisoner population as of July 31 exceeded design capacity by 1,289 prisoners, reaching a population density of 137 percent of the recommended limit (the prison ombudsman's report defined a 120 percent density as "critical"). Overcrowding and understaffing resulted in sanitation, social, and health problems.

Many prisoners depended on visitors for enough food to reach the daily minimum caloric intake. Although a new clinic in Comcar Prison greatly improved health services during the year, access to medical and dental care, recreation, and training remained deficient. An Honorary Anti-Tuberculosis Commission report confirmed 85 cases of tuberculosis in the prison population in 2008. A high percentage of prisoners reportedly used drugs. A government rehabilitation program trained 40 inmates from two prisons to prepare participants to train other inmates on such topics as health and narcotics-abuse treatment. Ministry officials stated that there were no complaints of police abuse in prisons during the year, which some observers attributed to fear of reprisals from prison staff; however, the prison ombudsman received unofficial reports of maltreatment.

Prisoner-on-prisoner violence continued to be a daily problem, partially due to the lack of a separate, high-security prison for violent criminals. In August five prisoners perished in a cell fire. The government judged that the prison staff's response had been swift and appropriate, but the prison system ombudsman questioned whether the incident had been adequately investigated. There were 22 deaths in prisons reported during the year. In October a prison riot and possible escape attempt led to the deaths of two prisoners. The presiding judge decided not to prosecute a police officer suspected of being responsible for one of the deaths.

In December authorities arrested the chief of the police station and three police officers in connection with the October 2008 strangulation death of a detainee; they awaited trial at year's end.

Government figures from the end of July recorded that there were 7,796 male and 607 female prisoners, of whom 35 percent had been sentenced, while 65 percent were awaiting trial. Pretrial detainees and convicted criminals were held together, but female and male prisoners were held in separate facilities. During the year 32 children lived in prison facilities with their inmate mothers.

The Uruguayan Institute for Adolescents and Children (INAU), which supervises juvenile detention and protects abandoned and orphaned children under age 18, also operated institutions to hold minor detainees. Juveniles who committed serious crimes were incarcerated in juvenile detention centers, which resembled traditional

jails and had cells. INAU reported that in November 250 juveniles were incarcerated. Conditions in some of these facilities were similar to adult versions, and conditions in others worsened as a result of frequent escape attempts and riots. Judges placed other juvenile offenders in halfway houses that focused on rehabilitation. These facilities, which housed 145 juveniles, provided educational, vocational, and other opportunities, and residents were permitted to enter and leave without restriction. A prison system ombudsman elected by the General Assembly is responsible for monitoring and reporting on prison conditions in the 29 detention centers around the country.

The government permitted general prison visits by independent human rights observers, nongovernmental organizations (NGOs), religious congregations, and foreign diplomats, and such visits occurred during the year. In March at the invitation of the government, the UN special rapporteur on torture visited several prisons. The special rapporteur reported that he found some sections inhuman and degrading, with conditions that included severe overcrowding and a lack of water, sanitation, and access to medical treatment. Many of the problems, the special rapporteur asserted, “were a direct result of the lack of a comprehensive criminal or penitentiary policy.”

Responding to the special rapporteur’s findings, the government accelerated and amplified existing plans to ease the prison system’s chronic overcrowding and doubled the budget allocation for prison improvements. Construction began on a series of projects to create 1,500 to 1,600 additional places in the prison system by the second half of 2010. These efforts included constructing a 312-place facility (on which work began in 2008) and converting an old barrack to create space for approximately 500 prisoners nearing the end of their sentences. Additionally, the government sought to relocate approximately 30 female prisoners with young children.

Despite outlining many concerns, the prison ombudsman’s 2009 report identified good practices in some prisons. The report highlighted an increase in prisoners in open prisons where the detainees were involved in maintaining small land holdings, a successful clinic in one of the country’s largest prisons, and advances in providing primary education to inmates.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions in practice. The law requires police to have a written warrant issued by a judge before making an arrest (except when police apprehend the accused during commission of a crime), and authorities generally respected this provision in practice.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the National Police, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

The Ministry of the Interior’s Directorate of Internal Affairs operated a hotline for complaints of police abuse. The directorate received 865 complaints of police abuse during the year. Most complaints were due to poor customer service in police offices, mistreatment and abuse, illegal arrests, and corruption, including three allegations of homicide. Such allegations are investigated internally before being presented for trial if evidence so merits.

There were some formal and informal reports of police corruption, which authorities addressed with appropriate legal action. In April, 15 prison guards were prosecuted and imprisoned in the department of Rivera for failing to provide evidence in the investigation of the death of a prisoner who was shot during a failed escape in 2007. In March a 30-year career police officer was convicted of drug and arms trafficking and graft in prisons.

*Arrest Procedures and Treatment While in Detention.*—Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. The law provides detainees with the right to a prompt judicial determination of the legality of detention, which was not always respected, and requires that the detaining authority explain the legal grounds for the detention. Police may hold a detainee incommunicado for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. The law stipulates that confessions obtained by police prior to a detainee’s appearance before a judge and attorney (without police present) are not valid. A judge must investigate any detainee’s claim of mistreatment. A lawyer assigned to each police station reports to the Ministry of the Interior concerning the treatment of detainees.

For a detainee who cannot afford a lawyer, the court appoints a public defender at no cost to the detainee. Judges rarely granted bail for persons accused of crimes punishable by at least two years in prison. Most persons facing lesser charges were not jailed. Detainees were allowed prompt access to family members. Some detain-



ees spend years in jail awaiting trial, and the uncertainty and length of detention contributed to tensions in the prisons. Trial delays were caused by lengthy legal procedures, large numbers of detainees, and staff shortages.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence. Juries are not used; trial proceedings usually consist of written arguments to the judge, which normally are not made public. Defendants have the right to consult an attorney in a timely manner, and those that do not have an attorney are provided one at the state's expense. Only the judge, prosecutor, and defense attorney have access to all documents that form part of the written record. There was some difficulty in maintaining confidentiality between client and attorney. Individual judges may hear oral arguments at their option, but most judges choose the written method, a major factor slowing the judicial process. Criminal trials are held in a court of first instance. Defendants have a right of appeal. The law extends these rights to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There are transparent administrative procedures to handle complaints of abuse against government agents. An independent and impartial judiciary handles civil disputes, but its decisions were ineffectively enforced. Local police lacked the training and manpower to enforce restraining orders, which were often generated during civil disputes.

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

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and the press.

*Internet Freedom.*—There were no government restrictions on the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that in 2008 there were 40 Internet users per 100 inhabitants.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

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

*Societal Abuses and Discrimination.*—There were a few cases of societal violence, harassment, or discrimination against members of religious groups.

Jewish community leaders reported that government officials and society generally respected members of their community, which numbered approximately 20,000 to 25,000. Jewish leaders reported effective cooperation with police investigating incidents of anti-Semitism. Israel's military action in January in the Gaza Strip led to numerous demonstrations at the Israeli Embassy, some which were anti-Semitic and violent. In the early morning of January 13, a Molotov cocktail was thrown at a Jewish community center causing material damage. There were no witnesses, and an investigation uncovered no conclusive evidence regarding the perpetrators. The government strongly condemned the act.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, asylum seekers, stateless persons, and other persons of concern. The law provides that in extreme cases of national emergency an individual may

be given the option to leave the country as an alternative to trial or imprisonment, but this option has not been exercised in at least two decades.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its laws provide for the granting of refugee status, and the government has established a system for providing protection to refugees. The government granted refugee status and 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. On October 8, the government signed a UNHCR framework agreement to accept 15 additional refugees per year. During the year the government accepted for resettlement 174 refugees, 14 of whom were third-country Colombians resettled from Ecuador. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

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

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

*Elections and Political Participation.*—On November 29, Jose Mujica of the incumbent Frente Amplio (Broad Front) Party won a five-year presidential term in a free and fair runoff election. The runoff followed a series of party primaries in June and a free and fair first-round election among the four leading parties in October. President-elect Mujica was scheduled to take office on March 1, 2010.

In parliamentary elections on October 25, the Frente Amplio won 16 of 30 seats in the Senate and 50 of 99 seats in the House of Representatives. The National Party won nine Senate and 30 House seats, the Colorado Party won five Senate and 17 House seats, and the Independent Party won two seats in the House.

Political parties operated without restrictions or outside interference.

Women participated actively in the political process and government, although primarily at lower and middle levels. Four senators and 14 representatives were women. Three of the 13 cabinet ministers were women.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

Public officials are subject to financial disclosure laws. A government commission on economic and financial matters collects sworn financial statements from public servants, including the president.

Although there is no general public disclosure law, the government requires all government agencies to produce regular public reports. All agencies complied with these reporting requirements.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

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

In March the UN special rapporteur on torture visited the country and issued a report on prison conditions (see section 1.c.).

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

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these prohibitions effectively, although societal discrimination against some groups persisted.

The Honorary Commission Against Racism, Xenophobia, and All Forms of Discrimination, headed by the Ministry of Education and Culture's director of human rights and including government, religious, and civil society representatives, proposes policies and specific measures to prevent and combat racism, xenophobia, and discrimination. Since its creation in 2007, the commission has investigated 60 claims from Afro-Uruguayans, persons with disabilities, and lesbian, gay, bisexual, and transgender (LGBT) persons. There were 14 cases brought to the commission's attention during the year, only one of which (a harassment case based on sexual orientation) it referred for legal action. The commission considered the other cases not valid for its action or handled them through mediation or other means.

*Women.*—The law criminalizes rape, including spousal rape. The law allows for sentences of two to 12 years' imprisonment for a person found guilty of rape. According to Ministry of Interior statistics, there were 302 rape cases during the year.

Authorities believed that some victims of spousal rape did not report such incidents because of failure to understand their rights and fear of social stigma.

The Ministry of Interior reported 13,712 cases of domestic violence during the year, up 10 percent from 2008. The law allows for sentences of six months to two years in prison for a person found guilty of committing an act of violence or making continued threats to cause bodily injury to persons related emotionally or legally to the perpetrator. Civil courts decided most of the domestic cases during the year. Judges in these cases often issued restraining orders, which were difficult to enforce. In many instances courts did not apply criminal penalties.

The Montevideo municipal government funded a free nationwide hotline operated by trained NGO employees for victims of domestic violence. The Ministry of Social Development, INAU, and NGOs operated shelters in which abused women and their families could seek temporary refuge.

Prostitution is legal for persons over the age of 18 and was practiced openly in major cities and tourist resorts. There were no known reports of police abuse of individuals engaging in prostitution. Trafficking in women for prostitution occurred.

The law prohibits sexual harassment in the workplace and punishes it by fines or dismissal. In August a new law established guidelines for the prevention of sexual harassment in the workplace and in student-professor relations and defined a system of damages for victims. Implementing regulations were pending at year's end.

Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Under the law women enjoy the same rights as men, including rights under family and property law. However, they faced discrimination stemming from traditional attitudes and practices, and no gender discrimination cases have ever been litigated. The law declares a state interest in gender equality and decrees the creation of the National Plan for Equal Rights and Opportunity. During the year the government created, under the National Institute for Women, the Tripartite Committee on Equal Opportunities and Employment, which includes a subcommittee on gender considerations in salaries and benefits. There was some segregation by gender in the workforce. Women constituted almost half of the workforce but tended to be concentrated in lower-paying jobs, with salaries averaging two-thirds those of men.

*Children.*—Citizenship is derived by birth within the country's territory or through one's parents. The government immediately registers all births.

There were few reports of physical and sexual child abuse.

Some minors engaged in prostitution and forced labor. INAU found that they sometimes did so at the request of their families to increase income. The minimum age for consensual sex is 12, although statutory rape laws can be applied starting at age 15 and carry a penalty of two to 12 years in prison. Penalties for pimping children range from four to 16 years in prison. Child pornography is illegal, and penalties range from one to two years in prison. The International Criminal Police Organization (INTERPOL) continued to uncover child pornography material produced in the country and available on the Internet through servers located in central Europe. Interpol and the Ministry of Interior authorities responded promptly to seven child pornography cases that came to light during the year.

INAU provided funding for a number of NGOs that had programs to assist at-risk children, as well as victims of domestic violence and sexual exploitation. Assistance to trafficking victims was provided on a case-by-case basis.

The Integral System to Protect Children and Adolescents Against Violence, an interagency workgroup that provided training and awareness-raising campaigns and promoted legislative advancements for the protection of children and adolescents, operated 10 centers to provide assistance to victims of child abuse.

*Trafficking in Persons.*—While laws prohibit all forms of trafficking in persons, the country was a source, transit point, and infrequently a destination for trafficked persons. Men, women, and children were trafficked for purposes of commercial sexual exploitation and forced labor. Most victims were women, girls, and some boys trafficked within the country to border and tourist areas for sexual exploitation. Through use of false job offers, some women were trafficked by organized crime networks to Spain and Italy for commercial sexual exploitation; others worked as drug couriers.

According to informed observers, commercial sexual exploitation of women and children occurred in the departments closest to the borders with Argentina and Brazil, notably in Paysandu, Salto, and Colonia. Child welfare organizations and independent research groups expressed concern about possible prostitution rings exploiting girls in Montevideo, in the aforementioned border areas, and in the resort areas of Punta del Este and Maldonado. There were also reports of prostitution involving boys.

The 2008 immigration law prohibits all forms of trafficking in persons, with sentences ranging from four to 16 years. The Ministry of Interior has primary responsibility for investigating trafficking cases. As a result of increased training and inter-agency cooperation, government effectiveness in identifying trafficking victims improved. At year's end two cases had been presented under the new law.

Two courts established during the year have specific jurisdiction on cases involving trafficking in persons, child prostitution, and child pornography.

While the government provided increased assistance to NGOs working in the area of trafficking, the availability of victim services remained spotty, especially outside the capital. The government does not have a formal system for identifying trafficking victims among vulnerable populations, such as women in prostitution or undocumented migrants.

An informal interagency committee to combat trafficking in persons, consisting of representatives from pertinent ministries and civil society groups, began meeting in January. The committee facilitated communication and training aimed at improving the overall government response to the threat of trafficking and victim assistance. The government conducted training for police and community leaders in high-risk areas of the interior to raise awareness and strengthen investigative capabilities, and consular officers received training prior to international assignments.

The government supervised the work of the National Committee to Eradicate Commercial and Noncommercial Sexual Exploitation of Children and Adolescents, which is led by INAU and is responsible for monitoring implementation of a national plan to eliminate the commercial sexual exploitation of children.

Following the November 2008 publication of its report on sexual exploitation in tourist areas, INAU embarked upon a large-scale information campaign, focused on tourist areas, to raise awareness of the issue, particularly the prostitution of minors. Youth activists distributed 50,000 leaflets and 5,000 posters, and INAU representatives delivered programs in schools and in hotels.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities, but the government did not effectively enforce these provisions. Local entities did not devote resources to provide appropriate accommodations. Persons with disabilities reported discrimination in employment despite government efforts to assist in individual cases. The government did not discriminate against persons with disabilities and provided additional services as resources allowed; however, difficulties in transportation inhibited some persons from accessing these services.

A national disabilities commission oversees implementation of a law on the rights of persons with disabilities. The law mandating accessibility for persons with disabilities to new buildings or public services was not consistently enforced. The law reserves 4 percent of public sector jobs for persons with physical and mental disabilities, but the quota was not filled.

*National/Racial/Ethnic Minorities.*—The country's Afro-Uruguayan minority continued to face societal discrimination. A National Bureau of Statistics study stated that Afro-Uruguayans comprised 9 percent of the population and indigenous descendants constituted another 3 percent. A July study concluded that 43 percent of Afro-Uruguayans were poor, with 5 percent living in extreme poverty. The study concluded that race is one of the factors responsible for socioeconomic inequality in the country. The NGO Mundo Afro stated that the percentage of Afro-Uruguayans working as unskilled laborers was much larger than for members of other groups in society, despite equivalent levels of education. Afro-Uruguayans were underrepresented throughout government and academia and in the middle and upper echelons of private-sector firms.

As part of a government initiative to increase visibility and improve communication, Mundo Afro was able to name Afro-Uruguayan advocates for appointments in each ministry and in the northern department of Rivera, which has a relatively large population of Afro-Uruguayans. The government also continued its outreach to the Afro-Uruguayan community for participation in the Quijano Scholarship Program for postgraduate work and increased that participation during the year. Afro-Uruguayan community representatives, however, sought programs focused more on

undergraduate education, noting that only 1 percent of Afro-Uruguayans attend college. Civil society groups and local governments conducted five regional workshops and one national conference for police and citizens to increase awareness of minority rights and the national and international laws protecting minorities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—No laws criminalize sexual orientation, and authorities widely protected the rights of the LGBT community. Several laws enacted during the year addressed specific rights of the LGBT community: specifically, the right to civil union for same-sex couples, the right for same-sex couples to adopt, and the right for transgender individuals to change their gender. Several LGBT groups were active in the country. They enjoyed free association and received wide support from government officials. In March the LGBT community joined with other civil rights and gender-rights groups in a “Diversity March,” which drew nearly 10,000 participants. Hate crimes were rare, and no hate crimes related to LGBT issues were reported during the year. Police generally afforded protection to the LGBT community, but there were reports of abuse of some transvestite sex workers. There were occasional reports of nonviolent societal discrimination based on sexual orientation and gender identity.

*Other Societal Violence or Discrimination.*—There were isolated reports of societal discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution grants the right of association, and the law promotes organization of trade unions and creation of arbitration bodies and protects union leaders and negotiators from workplace discrimination. Unions traditionally organized and operated free of government regulation. Civil servants, employees of state-run enterprises, and private-enterprise workers may join unions. Unionization was higher in the public sector (more than 42 percent) than in the private sector (approximately 10 percent).

The constitution provides workers with the right to strike, and workers exercised this right in practice. 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.”

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the government protected this right. The law also protects collective bargaining, and it was freely practiced.

Collective bargaining between companies and their unions determines a number of private-sector salaries. The executive branch, acting independently, determines public-sector salaries.

On September 2, the legislature passed a law establishing regulation of collective bargaining, which creates a larger role for the government in adjudicating labor disputes. The bill creates a Superior Tripartite Council made up of 21 officials: nine from the executive branch of government, six from the business community, and six from organized labor. This council administers the salary councils and has authority to make determinations related to labor negotiations. The law also designates trade unions to negotiate on behalf of workers whose companies are not unionized.

The law expressly prohibits antiunion discrimination and requires employers to reinstate workers fired for union activities and pay an indemnity to such workers. The Ministry of Labor’s Collective Bargaining Division investigates antiunion discrimination claims filed by union members. There were generally effective mechanisms for resolving workers’ complaints against employers.

All labor legislation fully covers workers employed in the 12 free trade zones. No unions operated in these zones, but the government did not prohibit their formation.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that some child labor occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children against exploitation in the workplace, including a prohibition of forced or compulsory labor, and the Ministry of Labor and Social Security is responsible for enforcing it. Enforcement was difficult due to a lack of resources and because most child labor occurred in the informal sector. INAU estimated that 34,000 children were involved in child labor. Some children worked as street vendors in the informal sector or in agricultural activities, areas generally regulated less strictly and where pay was lower than in the formal sector. There were isolated reports of parents turning their children over to third parties for domestic service or agricultural work in exchange for food and lodging.

The law prohibits minors under the age of 15 from working, and this was generally enforced in practice. Minors between the ages of 15 and 18 require government permission to work and must undergo physical exams to identify possible exposure to job-related physical harm. Permits are not granted for hazardous or fatiguing work. Children between ages 15 and 18 may not work more than six hours per day within a 36-hour work week and may not work between 10 p.m. and 6 a.m.

Violations of child labor laws are generally punishable by fines but may extend to imprisonment of three months to four years.

INAU implemented policies to prevent and regulate child labor and provided training on child labor issues. INAU also worked closely with the Ministry of Labor and Social Security to investigate complaints of child labor and with the Ministry of Interior to prosecute cases. INAU had five trained inspectors to handle an estimated 1,250 inspections per year.

*e. Acceptable Conditions of Work.*—The Ministry of Labor and Social Security enforces a legislated minimum monthly wage that covers both the public and private sectors. The ministry adjusts the minimum wage whenever it adjusts public sector wages. The monthly minimum wage of 4,441 pesos (approximately \$216) functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels; it did not provide a decent standard of living for a worker and family. The vast majority of workers earned more than the minimum wage. While there are no known mechanisms for enforcement, observers believed companies generally complied with the regulations.

The standard workweek ranged from 44 to 48 hours per week, depending on the industry, and employers were required to give workers a 36-hour block of free time each week. The law stipulates that industrial workers receive overtime compensation for work in excess of 48 hours, entitles workers to 20 days of paid vacation after a year of employment, and prohibits compulsory overtime beyond a maximum 50-hour workweek.

The law protects foreign workers and does not discriminate against them, but official protection requires the companies to report the foreign workers as employees. Many citizens and foreign workers were employed informally and thus did not benefit from certain legal protections.

The Ministry of Labor and Social Security enforced 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 without jeopardy to their employment; the government effectively upheld this right, but some workers claimed a subsequent loss of other privileges at work based on their refusal to work in unsafe conditions.

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## VENEZUELA

Venezuela is a constitutional democracy with a population of approximately 27 million. In 2006 voters reelected President Hugo Chavez Frias of the Fifth Republic Movement party. International observer missions deemed the elections generally free and fair but noted some irregularities. In February voters approved a constitutional referendum eliminating term limits for elected officials. While civilian authorities generally maintained control of the security forces, there were instances in which elements of the security forces acted independently.

Politicization of the judiciary and official harassment and intimidation of the political opposition and the media intensified during the year. The following human rights problems were reported by the nongovernmental organization (NGO) community, the media, and in some cases the government itself: unlawful killings, including summary executions of criminal suspects; widespread criminal kidnappings for ransom; prison uprisings resulting from harsh prison conditions; arbitrary arrests and detentions; corruption and impunity in police forces; a corrupt, inefficient, and politicized judicial system characterized by trial delays and violations of due process; political prisoners and selective prosecution for political purposes; infringement of citizens' privacy rights by security forces; government closure of radio and television stations and threats to close others; government attacks on public demonstrators; systematic discrimination based on political grounds; considerable corruption at all levels of government; threats and attacks against domestic NGOs; violence against women; inadequate juvenile detention centers; trafficking in persons; and restrictions on workers' right of association.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The government and its agents did not commit any politically motivated killings; however, security forces were accused of committing unlawful killings, including summary executions of criminal suspects.

There were several reports of arbitrary or unlawful deprivations of life allegedly committed by security forces. The human rights NGO Venezuelan Program of Action and Education in Human Rights (PROVEA) reported 205 deaths due to security force actions from October 2008 through September 2009. The causes of death were categorized as executions, 135; excessive force, 45; indiscriminate force, 14; torture or cruel treatment, 10; and a case of negligence. In its 2008 annual report, the Public Defender's Office cited receiving 134 allegations of unlawful killings by government security forces during 2008.

Prosecutors occasionally brought cases against such perpetrators. Sentences frequently were light, convictions often were overturned on appeal, and security force members charged with or convicted of crimes rarely were imprisoned. According to PROVEA, in 2007 (the most recent year for which it had information) 370 public officials were involved in extrajudicial killings, of whom 16 received prison sentences. According to Public Ministry statistics published in the newspaper *El Nacional* in July, during 2008 and the first trimester of 2009, out of 755 homicide cases suspected to involve security officials or police officers, authorities filed 384 charges and courts handed down 12 sentences.

Authorities charged three Merida policemen, one member of the national intelligence service (the Bolivarian Intelligence Service (SEBIN), as of December 4; formerly the Directorate of Intelligence and Prevention Services (DISIP)), and one civilian in the killing of eight young persons on January 24 in a cafe in El Vigia, Merida. At year's end an investigation continued, and the accused were held in Coro Penitentiary.

In June authorities charged three Merida police officers in connection with the April 28 shooting of student leader Yuban Ortega during a student demonstration in Merida and with his death two days later; requested dismissal of related charges against five other police officers; and requested that the accused be held in custody pending trial. In September a court admitted the indictments and ordered the case to trial, which was pending at year's end. As of September 2, the accused were detained in the Merida State Police headquarters.

In May an eyewitness accused 10 El Valle police officials of involvement in the May 20 killing of Anderson Naranjo. The media reported that the officers threw the victim off a roof after he refused to pay extortion or admit to possessing allegedly "planted" drugs. No information on the investigation was available at year's end.

In June authorities detained two Caracas Police Department members (Alejandro Guerra and Jorge Corrales) for their alleged involvement in the May 30 killing of a taxi driver, Freddy Jose Castillin. An investigation was pending at year's end.

On July 4, authorities charged four members of the Libertador Municipal Police Department with premeditated homicide and illegal firearm use in the June 9 daytime killing of psychologist Ana Matilde Raimondi de Bellorin. The four remained in custody at year's end awaiting conclusion of an investigation and trial.

On November 28, Aragua State police officers reportedly killed 22-year-old Oscar Barrios, the fifth member of his family allegedly killed by police. Since the Barrios family had been under protective orders issued by the Inter-American Court of Human Rights in 2004, the Inter-American Commission on Human Rights (IACHR) on December 4 condemned the killing and labeled it "extremely grave that the State of Venezuela had not adopted the measures necessary to protect [Barrios's] life and integrity." The IACHR further reminded the government of its obligations to investigate the killing, sanction those responsible, and adopt all necessary measures to protect the family. In early December the Inter-American Court twice requested that the government provide information regarding the death of Oscar Barrios. By mid-December the government had not responded to that request, and the court convoked a public hearing on the matter for January 2010. Also of note, the IACHR in January admitted a petition by Eloise Barrios and others—alleging that the government was responsible for violations of the rights to life, humane treatment, personal liberty, a fair trial, and judicial protection set forth in the American Convention on Human Rights—in connection with the deaths of her family members.

There were no known developments in the case against five 32nd Caribbean Brigade army members charged with the May 2008 beating and killing of Jean Carlos Rondon in Monagas State. Pursuant to an August 2008 court decision, the five suspects remained imprisoned pending trial.

There was no information available about the July 2008 killing of Roger Oscar Avila by unknown assailants dressed as Caracas Metropolitan Police members.

Responding to an IACHR inquiry, Prosecutor General Luisa Ortega Diaz explained in late 2008 that the July 2008 shooting and killing of El Rodeo jail inmate Miguel Hiroyuki Baba Barroyeta and the injuring of five individuals (inmates Alexander Jose Gonzalez Mosquera, Renato Javier Rea Noguera, and Hector Luis Solorzano Dias as well as National Guardsman Victor Eduardo Salcedo Ochoa and driver Manuel Eloy Gonzales) had occurred while the inmates were in custody and being transferred from court to prison. According to the prosecutor general, the shooting resulted from prisoners attempting to seize weapons and escape; there were no known developments in the case during the year.

In August a court preliminary hearing upheld the indictment of 10 Lara State police officers charged in late 2008 with involvement in the October kidnapping, torture, sexual abuse, and execution-style killings of six persons (including four minors) in Portuguesa State; continued their detention; and ordered a trial.

There was no information available concerning the killings in 2007 of five men allegedly by eight Guarico State police members and a taxi driver by Anzoategui State police.

In April a court sentenced four police officers and nine civilians to 30 years in prison for the 2006 kidnapping and killing of three boys and their driver.

In September the Inter-American Court of Human Rights held a hearing regarding the government's implementation of the court's 2006 decision in the case of the 1992 massacre of 63 inmates and the injuring of 100 persons at the Reten de Catia prison. In October the prosecutor general stated that the Public Ministry had undertaken more than 300 investigative actions designed to fulfill the court's decision.

There were the following developments during the year in connection with the killings in Caracas in 1989, known as the "Caracazo":

Between July and October, the Public Ministry charged four former security force officials—former minister of defense Italo Del Valle Alliegro, former Caracas Strategic Command head Manuel Heinz Azpurua, retired National Guard general Freddy Maya Cardona, and former Metropolitan Police director Jose Rafael Leon Orsoni—with being accomplices to homicide and violating treaties and international conventions.

In September the government submitted an arrest request to Interpol for former president Carlos Andres Perez.

In September the Public Ministry continued its exhumation of victim remains. The NGO Committee of the Relatives of Victims of the Events between February 27 and early March 1989 (COFAVIC) expressed concern that these government exhumations could not be considered independent since government agents allegedly were implicated in the killings, and some relatives asserted that they would only accept remains examined by independent experts. The Public Ministry rejected COFAVIC's request that forensic experts from Argentina participate in the process. COFAVIC referred the matter to the Inter-American Court of Human Rights which, on September 23, asked the government to provide information about its exhumation and identification efforts and to include victims' relatives in the processes. The court-requested information was not provided by year's end.

In October a court began retrying two police officers for their alleged involvement in the killing of Luis Manuel Colmenares. Their 2003 acquittal was annulled by an appeals court in 2004.

There was one development during the year in connection with the so-called El Amparo massacre in 1988, in which government security forces allegedly killed 14 persons: In December the Inter-American Court of Human Rights decided to convoke a private hearing in January 2010 to obtain information from the government regarding its implementation of the court's 1996 decision that required reparations to the victims' families, continuation of the investigation of the incident, and prosecution of those responsible.

There were the following developments during the year in connection with the so-called Yumare massacre in 1986, in which nine persons were killed:

In April the prosecutor general asked the military prosecutor general to transmit its case files.

In May the Public Ministry announced its intention to turn over the remains of six victims to their families. (Two other victims' remains were released to relatives in 2006, and a third set were not claimed.)

The prosecutor general also issued arrest warrants for two unnamed persons in June and formally accused seven former DISIP agents and a former army officer in August of involvement in the massacre.

Also in August DISIP agents searched the home and personal files of then president Lusinchi.



In October the Criminal Chamber of the Supreme Court approved the government's request for the extradition from Costa Rica of former police commissioner Henry Rafael Lopez Sisco of DISIP to answer charges related to the killings.

There were the following developments during the year in connection with the so-called Cantaura massacre in 1982, in which armed forces and DISIP members allegedly killed 25 persons:

In April the prosecutor general requested that the military prosecutor general transmit its case files. The Public Ministry announced receipt of the original Directorate of Military Intelligence files in August and the military court files in October.

In October the Public Ministry began exhuming victim remains located in five states and Caracas.

In October the prosecutor general stated that massacre survivors would be protected and that the massacre was not the result of a confrontation between military forces and guerrillas but an "ambush" involving 471 military and DISIP personnel and approximately 40 persons in a guerrilla camp.

Societal violence remained high. In the first four months of the year, the NGO Venezuelan Observatory of Violence reported 4,659 killings in the country. For 2008 the observatory noted 49 killings for every 100,000 inhabitants nationwide and an estimated 130 killings per 100,000 inhabitants of Caracas.

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

However, criminal kidnappings for ransom were reportedly widespread in both urban centers and rural areas. PROVEA reported that in the first nine months of the year there were 518 kidnappings, an increase of 41 percent from the 366 it reported for all of 2008. The National Federation of Cattle Ranchers president announced late in the year the recording of 360 abductions between January 1 and December 16, mainly in states along the country's western border with Colombia. On December 23, the director of the government's Scientific, Penal, and Criminalistic Investigative Corps (CICPC) stated that kidnappings had increased by approximately 63 percent during the year, with a total of 616 cases reported. NGOs noted that many victims did not report kidnappings to police or other authorities.

Media frequently reported the public perception of collaboration between police and kidnappers. According to the NGO Active Peace, in 2008 the average total cost of a kidnapping—based on an average of 12 days in captivity, a negotiator's fee, and ransom paid—was approximately the equivalent of \$118,000. Human rights NGOs reported approximately 20 percent of kidnapping victims were minors or students.

In the case of the forced disappearances of two persons during the 1999 mudslide in Vargas State, the government reported to the Inter-American Court of Human Rights in September that a court sentenced DISIP official Casimiro Jose Yanez in June to 15 years' imprisonment and acquitted another official.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution states that no person shall be subjected to cruel, inhuman, or degrading punishment, there were credible reports that security forces continued to torture and abuse detainees.

PROVEA reported that in the 12 months prior to September, it received 16 complaints alleging torture and 427 complaints regarding cruel, inhuman, and degrading treatment, a decrease from the 573 cases reported in the comparable period in 2008. (PROVEA defines "torture" as methods used by state security force members to extract information from victims and "cruel and inhuman treatment" as methods used by those members to punish or intimidate victims.)

In August the government Public Defender's Office reported that allegations of torture by the police had increased by 10 percent during 2008. Of the 87 complaint cases filed that year, 66 resulted from alleged physical torture and 21 from alleged psychological torture; 62 percent of the victims were men between 20 and 34.

Human rights groups continued to question the commitment of the prosecutor general and the human rights ombudsman to oversee neutral investigations. There was no data available on convictions in cases of alleged torture.

Reports of beatings and humiliating treatment of suspects during arrests were common and involved various law enforcement agencies.

*Prison and Detention Center Conditions.*—Prison conditions were harsh, due to poorly trained and allegedly corrupt prison staff; violence and alleged extortion by guards and inmates, some gang-related and fueled by trafficking in arms and drugs; severe overcrowding in some prisons; and food and water shortages. The prison-monitoring NGO Venezuelan Prison Observatory (OVP) estimated that existing prisons were designed to hold approximately 60 percent of the 23,457 persons in the national penitentiary system. For the first nine months of the year, PROVEA re-

ported that a total of 30,483 persons were imprisoned, of whom 1,901 or 6 percent were women; and that 55 centers in the country held approximately 750 minors.

Security forces and law enforcement authorities often held minors together with adults, even though separate facilities existed. Because reform institutions were filled to capacity, hundreds of children accused of infractions were confined in juvenile detention centers where they were reportedly crowded into small, unsanitary cells. Women and men generally were held in separate prison facilities. The OVP stated that while no prison had good conditions, women's facilities were generally less violent and healthier than those for men.

Both the OVP and PROVEA estimated that only approximately one-third of the prisoner population in 2008 had been formally convicted and sentenced, while two-thirds were in preventive detention or awaiting trial. In its 2008 annual report, the Public Defender's Office noted that 30 percent of those imprisoned had been sentenced.

The National Guard and the Ministry of Interior and Justice have responsibility for exterior and interior security, respectively. The government failed to provide adequate prison security. The OVP estimated in 2008 that the guard force in Uribana prison, one of the most violent prisons, was 0.5 percent of the required strength.

The OVP reported 366 inmates died in custody during the year and 635 were injured, compared to 422 deaths and 854 injuries in 2008. Most such deaths and injuries resulted from prisoner-on-prisoner violence, riots, fires, and generally unsanitary and unsafe conditions. The Carabobo Penitentiary (commonly known as "Tocuyito") documented the highest numbers in the country of deaths (53) and injuries (106) due to violence during the year.

Hunger strikes and prison uprisings protesting administrative delays and harsh prison conditions were common during the year. They included the following selected cases:

In March in prison protests in 11 separate prisons, the OVP reported that more than 6,000 inmates and 3,000 family members protested the country's poor prison conditions. During the protests National Guard forces shot an inmate, Francisco Madrid, in the head.

In May in Los Teques prison, the OVP reported to the media that prisoner human rights were violated when guards allegedly left inmates naked for several hours during a search for weapons and guns. During the search the National Guard shot and injured two inmates, and 10 other prisoners allegedly were injured.

In August according to media reports, a prison uprising resulted in the killing of eight prisoners and injury to five in the Vista Hermosa jail in Bolivar State.

Human rights observers continued to experience lengthy administrative delays and restricted access to prisons and detention centers.

The government's High-Level Prison Council, established in December 2008 to design penitentiary-system improvement policies, began work during the year. In July the prosecutor general announced a pilot project in Caracas to create two prosecutors' offices (one for investigations, another for trials) to expedite cases involving Caracas-area inmates. The Supreme Court president announced an increased number of judges to reduce judicial delays. PROVEA reported the opening during the year of new penitentiaries or annexes in Coro (capacity 840) and in Caracas (Terrazas de Yare III, capacity 432), and others were under construction as part of the government's "Strategic Plan to Humanize the Penitentiary System, 2006-11."

During a public hearing convened by the Inter-American Court of Human Rights in September, a government delegation provided information on government actions to comply with a 2006 court decision regarding the improvement of penitentiary conditions and concluded that prison violence had been reduced. In a September 30 statement, the IACHR rapporteur on the rights of persons deprived of liberty recognized these efforts but found them insufficient to overcome the high level of prison violence; and inmate representatives claimed the government "violates, continually, systematically and notoriously, the right to life and personal integrity of the inmate population." In November the Inter-American Court issued a resolution requiring the government to maintain the provisional measures and to submit bimonthly reports, beginning in February 2010, with specific information on actions taken "to protect the life and integrity" of inmates, and requiring the IACHR and inmate representatives to provide reports every six and four months, respectively, on prison conditions.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits the arrest or detention of an individual without a judicial order; provides for the accused to remain free while being tried, except in specific cases where state law or individual judges may supersede this provision; and provides that any detained individual has the right to immediate communication with family and lawyers who, in turn, have the right to know a detainee's whereabouts (see also section 1.e.).

*Role of the Police and Security Apparatus.*—The National Guard, a branch of the military, is largely responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counternarcotics operations, monitoring borders, and providing law enforcement in remote areas. The Ministry of Interior and Justice controls the CICPC, which conducts most criminal investigations, and the SEBIN (formerly DISIP), which collects intelligence within the country and is responsible for investigating cases of corruption, subversion, and arms trafficking.

Mayors and governors generally oversee local and state police forces; however, in 2008 the Interior and Justice Ministry assumed authority over the Caracas Metropolitan Police from the mayor of Greater Caracas.

In December following the killing of two National Guardsmen in Tachira State, President Chavez alleged that the Tachira and Zulia state police forces had failed to control Colombian paramilitary activity and warned that the national government might intervene in those forces. In a December 21 public statement, the president said he told the defense minister and the strategic operational commander to seize state police headquarters if they continued “openly [to] defy the public authority.” The two state governors, members of the opposition, rejected the intervention threat.

Pursuant to a 2008 law, President Chavez inaugurated the new Bolivarian National Police (PNB) in December, and the PNB deployed its first graduating class of 953 officers in a Caracas municipality. According to its mission statement, the PNB is not to be a substitute for, but a complement to, state and municipal police efforts.

Corruption was a major problem in all police forces, whose members were generally poorly paid and minimally trained. Impunity for corruption, brutality, and other acts of violence were major problems explicitly acknowledged by some government officials.

In July for instance, General Juan Francisco Romero Figueroa, vice minister of citizen security in the Ministry of Interior and Justice, illustrated the need for police internal investigations by reporting that 1,800 of the 9,000 Metropolitan Police officers were under investigation for alleged misconduct or human rights violations—including kidnapping, torture, unlawful arrest and detention, and extrajudicial killing—stemming from cases filed in the previous eight years. In October Interior and Justice Minister Tarek El Aissami stated that police committed approximately 15-20 percent of the country’s crimes, including the most violent ones.

In March Vice President Ramon Alonzo Carrizales and the interior and justice minister established the National Prevention Council for Citizen Security to address crime-related issues. Under its auspices, an expert-level conference to discuss public policies for crime reduction occurred in October.

The government used police and the National Guard to repress political demonstrations (see section 2.b.).

Some local police forces offered human rights training for their personnel. For example, during the year the Chacao municipality of Caracas continued to provide mandatory human rights training to all new police recruits. Amnesty International worked with the municipality to offer workshops on domestic-violence case processing.

*Arrest Procedures and Treatment While in Detention.*—A warrant is required for an arrest or detention. A detention is possible without an arrest warrant when the individual is caught in the act of committing a crime. Persons were sometimes apprehended without warrants from judicial authorities. Detainees must be brought before a prosecutor within 12 hours and before a judge within 48 hours to determine the legality of detention. A person accused of a crime may not be detained for longer than the possible minimum sentence for that crime nor for longer than two years, except in certain circumstances, such as when the defendant is responsible for the delay in the proceedings. The law requires that detainees be promptly informed of the charges against them, and that requirement was generally met in practice.

Although there is a functioning system of bail, it is not available for certain crimes. Bail also may be denied if a person is apprehended in the act of committing a crime or if a judge determines that there is a danger that the accused may flee or impede the investigation. In 2008 the public defender reported that more than 60 percent of those imprisoned had not been convicted or sentenced. The law requires that detainees be provided access to counsel and family members, and that requirement was generally met in practice.

*e. Denial of Fair Public Trial.*—While the constitution provides for an independent judiciary, judicial independence remained compromised according to many observ-

ers, and there were allegations of corruption and political influence, particularly from the Prosecutor General's Office. (See also section 3.)

On May 21, authorities raided the Caracas residence of Guillermo Zuloaga, president of the private television network Globovision, and confiscated 24 new vehicles and hunting trophies. According to Zuloaga, the automobiles belonged to his car dealership and were at his home for security reasons, and the trophies had been acquired abroad. On July 16, a court charged Zuloaga with hoarding vehicles and issued an order preventing his departure from the country. The next day the judge handling the case stated publicly that a superior had pressured her to issue the order; three days later she was notified of the revocation of her judicial appointment. On July 21, the 13th Criminal Court overturned the travel injunction, but the following day another judge reinstated the travel ban, which continued in force at year's end.

Eligio Cedenó—a banker accused in 2003 and detained in 2007 on charges of corruption and embezzlement, and conditionally released on December 10—alleged in a December 25 press conference outside the country that his case was subjected to judicial manipulation, due process violations, and numerous trial irregularities. A court had annulled his earlier trial in May at Public Ministry request, ordered a retrial, and reinstated a detention order, but the Appeals Court for Caracas ordered his release in October because his detention exceeded the two-year limit. The Public Ministry successfully appealed the release order to the Constitutional Chamber of the Supreme Court, but on December 10, Judge Maria Lourdes Afiuni granted Cedenó conditional release pending retrial. Shortly thereafter, SEBIN agents detained the judge on charges of corruption, aiding in the evasion of justice, abuse of authority, and conspiracy; and the two bailiffs, on corruption, aiding in the evasion of justice, and conspiracy charges. The bailiffs were released pending trial, but President Chavez called for the judge's imprisonment for 35 years as a lesson to others. At year's end she remained detained at the Women's Detention Facility, and her attorney expressed concern for her safety in that facility since women she had sentenced were held there. SEBIN was unable to locate Cedenó after his departure from the courthouse and issued a fugitive arrest warrant; Foreign Minister Nicolas Maduro Moros announced the government's intention to seek Cedenó's extradition on December 22.

A court sentenced former Caracas Metropolitan Police commissioners Ivan Simonovis, Henry Vivas, and Lazarro Forero to 30 years' imprisonment on April 3 for coordinating police firing on pro-Chavez demonstrators during events related to the 2002 attempted coup. They continued to maintain their innocence and assert that the prosecution was politically motivated. The defendants also claimed that the verdicts were reached despite a lack of key forensic evidence and asserted that the court ignored exonerating video, audio, and eyewitness-testimonial evidence. Of the eight police officers also charged in connection with the shootings, a court found seven guilty and sentenced them to prison terms ranging from three to 30 years. At year's end they were held at SEBIN headquarters in Caracas.

The judicial sector consists of the Supreme Court of Justice and lower courts, the Prosecutor General's Office, and the Ministry of Interior and Justice. The Supreme Court, the highest court, administers lower courts through the Executive Directorate of the Judiciary. Supreme Court justices are elected by the National Assembly for 12-year terms.

According to the NGO Penal Forum, almost 40 percent of lower court judges were provisional and temporary. The Supreme Court's Judicial Committee may hire and fire temporary judges without cause or explanation, and it did so. (See section 3 for examples of dismissals contested in the IACHR and the Inter-American Court.) Provisional and temporary judges, who legally have the same rights and authorities as permanent judges, were particularly subject to political influence from the Ministry of Interior and Justice and the prosecutor general. A prominent legal scholar's study, published in the media in March, concluded that in 2007 the Supreme Court's Political-Administrative Chamber ruled in favor of the government in 324 of the 325 cases brought by private citizens against the government.

The law provides that the Moral Council (prosecutor general, human rights ombudsman, and comptroller general) may suspend judges and allows the National Assembly to remove Supreme Court justices by a simple majority vote.

Lower court judges hear pretrial motions, including prosecution and defense motions, prior to criminal cases going to trial judges. Executive judges oversee the application of sentences. Appeals courts, consisting of three-judge panels, review lower court decisions. The prosecutor general oversees the prosecutors who investigate crimes and bring charges against criminal suspects.

The three persons convicted in 2007 for their roles in the 2004 car bombing that killed prosecutor Danilo Anderson remained in a SEBIN jail on 27- to 30-year sen-

tences. In March 2008 a former prosecutor in the case alleged that their convictions had been based on false and perjured testimony.

*Trial Procedures.*—Defendants are considered innocent until proven guilty. The law provides for open, public, and fair trials with oral proceedings for all individuals. Defendants have the right to be present and consult with an attorney. Public defenders are provided for indigent defendants, but there continued to be a shortage. Defendants have the right to question witnesses against them and present their own witnesses. Defendants and their attorneys have the right to access government-held evidence, but in practice this access often did not occur. Defendants and plaintiffs have the right of appeal. Trial delays were common.

The law provides that trials for military personnel charged with human rights abuses after 1999 be held in civilian rather than military courts.

*Political Prisoners and Detainees.*—During the year various NGOs reported between 11 and 57 political prisoners in the country. Nine leading NGOs published advertisements in Trinidad and Tobago newspapers before the April Summit of the Americas that listed the names of 11 persons they considered political prisoners. The advertisements also claimed that the government was pursuing another 45 persons as “political objectives” using various legal and administrative means. As of December 31, the NGO Venezuelan Awareness Foundation listed 32 persons as political prisoners.

In some cases political prisoners were held in various penal facilities, including SEBIN installations and the Ramo Verde military prison. Authorities permitted the International Committee of the Red Cross access to these individuals.

Some examples of persons claiming to be political detainees follow (see also section 1.e.):

On July 29, Tachira authorities detained journalist Gustavo Azocar following the publication on the Internet, in violation of a court gag order, of excerpts from his trial for alleged illegal enrichment resulting from an advertising contract with Tachira State’s lottery. He claimed his prosecution was politically motivated because of his investigative reporting on government corruption, including by the president’s relatives—a claim supported by the National College of Journalists and the NGOs Reporters without Borders and Inter American Press Association (IAPA). The trial judge was suspended in September, and a new trial was ordered; no date was set, and he remained in Santa Ana prison, Tachira.

On August 26, authorities arrested the opposition prefect of the Caracas Metropolitan District, Richard Blanco, on charges of “injurious and law-breaking behavior” following a scuffle between police and opposition protesters during August 22 demonstrations against a new educational reform law and the “criminalization” of protest. He argued that he had intervened to protect a plainclothes police officer whom protesters were threatening after the officer photographed them. At year’s end Blanco remained imprisoned pending trial.

On August 28, authorities arrested 11 municipal employees associated with opposition Greater Caracas Mayor Antonio Ledezma on charges of “disturbing public order” following their participation in an August 22 march. The employees were granted provisional release from prison on October 29, and formal charges remained pending at year’s end.

On September 7, Caracas authorities detained student leader Julio Cesar Rivas for alleged involvement in fomenting violence during an August 22 march. Charged with resisting authorities, unauthorized use of a firearm, and instigation of civil war, he was released from prison on September 28 and required to appear in court every 30 days; charges remained pending at year’s end. His arrest sparked student hunger strikes, in Caracas and several other cities, that ended two days after his release and after the secretary general of the Organization of American States (OAS) stated that the students could present their request for an IACHR visit to commission headquarters in Washington.

At year’s end Jose Sanchez “Mazuco,” former Zulia State security chief, remained in custody at the Ramo Verde military prison following his 2007 arrest for alleged involvement in the killing of a military intelligence police informant in jail. Prosecutors alleged that Sanchez authorized the killing; Sanchez claimed persecution because of his association with opposition leader Manuel Rosales (to whom Peru later granted asylum (see section 3)).

*Civil Judicial Procedures and Remedies.*—There are separate civil courts that permit citizens to bring lawsuits seeking damages. Like all courts in the country, however, the civil elements of the judiciary remained subject to strong executive control.

In the past there were administrative remedies available, but they were generally inefficient. The current consumer-protection mechanism is enforced by the Institute for Defense of the People in Accessing Goods and Services (INDEPABIS) under the

auspices of the Commerce Ministry. INDEPABIS is empowered to use reconciliation, mediation, and arbitration to settle disputes and is able to sanction providers of goods and services who violate the law. INDEPABIS also has authority to expropriate goods and services. Other entities that provide administrative or civil remedies include the National Securities Commission and the superintendencies of banks, insurance, cooperatives and savings accounts, and the promotion and protection of free competition.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution provides for the inviolability of the home and personal privacy; however, in some cases security forces allegedly infringed on citizens' privacy rights by searching homes, particularly those of independent media owners and opposition leaders.

In July agriculturalist Franklin Brito began a hunger strike to protest the government's failure to resolve remaining compensation issues related to the National Land Institute's 2003 seizure of part of his lands in Bolivar State. He ended the strike in December after receiving a commitment from the National Assembly president to resolve those issues but resumed the strike later that month claiming that the commitments had not been honored fully. The government claimed responsibility for safeguarding his life and forcibly moved him to the psychiatric ward of the Military Hospital for his own "protection," where he remained at year's end.

There was no further information on the investigation into the December 2008 attack against former opposition gubernatorial candidate Lenny Manuitt in her home, allegedly by two men dressed as CICPC officers.

Human rights NGOs asserted that the government was complicit with others, including National Assembly Deputy Luis Tascon, in maintaining the "Tascon" and "Maisanta" Lists, which were reportedly used by employers to dismiss or refuse to hire persons who signed a petition in 2003 to hold a recall referendum on President Chavez in 2004.

NGOs expressed concern over official political discrimination against, and the firing of, state employees whose views differed from those of the government. According to PROVEA, the government used coercion and the threat of dismissal to compel state employees to attend partisan political functions.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the combination of laws and regulations governing libel and media content, as well as legal harassment and physical intimidation of both individuals and the media, resulted in practical limitations on these freedoms and a climate of self-censorship.

The law makes insulting the president punishable by six to 30 months in prison without bail, with lesser penalties for insulting lower-ranking officials. Comments exposing another person to public contempt or hatred are punishable by one-to-three-year prison sentences and fines starting at 55 Bs.F (approximately \$26). Inaccurate reporting that disturbs the public peace is punishable by a two-to-five-year prison term. The requirement that media disseminate only "true" information was undefined and open to politically motivated interpretation.

Government officials regularly characterized the independent media as fomenting instability in the country, and according to the media and NGO community, the government employed a variety of mechanisms to harass and intimidate the private media.

Members of the independent print media privately said they regularly engaged in self-censorship due to fear of government reprisal. The country's major newspapers were independently owned but heavily dependent on government advertising. In regions where local newspapers competed for the same audience and a smaller pool of advertisers, print media tended to exercise even more caution in order to secure financing from government sources. The government published one national newspaper, *Diario Vea*, with a relatively low circulation. In August President Chavez announced government publication and funding of a new newspaper, *El Correo del Orinoco*; it began publication in September. Also in August a new local Caracas newspaper, *Ciudad CCS*, debuted; the newspaper was run by the presidentially appointed Capital District vice president and received funding from the mayor of the Libertador municipality of Caracas.

The country's nonsubscription broadcast media were largely government owned. The government operated six channels with nationwide coverage.

Government officials, including the president, used government-controlled media outlets to accuse private media owners, directors, and reporters of fomenting antigovernment destabilization campaigns and coup attempts. Officials made such allegations against Alberto Federico Ravell, director of all-news cable television net-

work Globovision; Guillermo Zuloaga, majority owner of Globovision (see also section I.e.); Miguel Henrique Otero, director of El Nacional newspaper; and Andres Mata, owner and editor in chief of El Universal newspaper.

Senior federal and state government leaders actively harassed privately owned and opposition-oriented television stations, media outlets, and journalists throughout the year, using administrative sanctions, fines, and threats of closure to prevent or respond to any perceived criticism of the government.

During the March 1 broadcast of his weekly Sunday talk-show program (Hello, President), President Chavez ordered progovernment governors and mayors to “draw a map of the media war” to determine which media were “owned by oligarchs,” although he did not specify what he or his administration intended to do with such information.

On April 13, President Chavez urged authorities to impose sanctions on private television networks Venevision, Globovision, Radio Caracas Television (RCTV), and Televen for allegedly having backed the 2002 coup by broadcasting cartoons and movies instead of covering the street protests that aided in his return to power.

Throughout May prominent government officials publicly denounced Globovision (see also section I.e.) and called for its closure. For example, on May 10, President Chavez threatened to close Globovision during his Sunday talk show. On May 11, the foreign minister publicly accused Globovision Director Ravell of conspiring to take away people’s rights and engaging in “media terrorism.” On May 18, the National Assembly president condemned Globovision at a political rally. On May 19, members of the governing United Socialist Party of Venezuela (PSUV) held a public demonstration against Globovision.

National and international groups, such as Reporters without Borders and the Committee to Protect Journalists, condemned government efforts throughout the year to restrict press freedom and to create a climate of fear and self-censorship. The domestic media-watchdog NGO Public Space released statistics showing that during the year, 191 journalists either were attacked or had their individual rights violated.

During the year two private media journalists were killed, and numerous others were subjected to physical attacks and threats, notably:

On January 1, El Impulso journalist and photographer Jacinto Lopez was kidnapped, shot, and killed, and another reporter was injured. In March the Public Ministry issued an arrest order against a suspect; at year’s end no further information was available.

On January 16, gunmen on motorcycles shot and killed investigative journalist Orel Sambrano in Valencia. The IACHR’s Office of the Special Rapporteur for Freedom of Expression “deplored” the killing. Authorities arrested two suspects who remained detained pending trial at year’s end, while a third suspect remained at large.

On April 22, the “La Piedrita” progovernment militant group published on its Web site a threat against Globovision, referring to the network and its sponsors as “military objectives” in the government’s stated “media war.” Among the journalists specifically threatened was Leopoldo Castillo, anchor and host of Globovision’s Hello, Citizen interview program.

On August 3, armed militants wearing red berets typical of presidential supporters brandished weapons; forced entry onto the grounds of Globovision; threw tear gas canisters; and injured a police officer, a security guard, and several other persons. Video and witness testimony pointed to government collaborator Lina Ron as the attack leader. After a government minister condemned the attack, authorities arrested Ron on August 4, charged her with promoting violence and public intimidation, and imprisoned her until conditionally released on October 14 pending trial.

Progovernment and foreign-affiliated media personnel also faced violence. For example:

On January 13 in Portuguesa State, unknown assailants shot and injured Rafael Finol, a progovernment journalist for the daily El Regional. At year’s end the attackers remained unknown, and an investigation continued.

On July 9, members of the security team of the Barinas State governor (the president’s brother) assaulted a freelance photographer working with a New York Times correspondent, briefly detained him, erased photographs from his camera, and removed him from the facility where the governor was giving a public speech.

On August 10, the government initiated an investigation—that continued at year’s end—into the killing of Ministry of Communication and Information (MINCI) journalist Daniel Ivan Escamez, whose body was found on August 7 with multiple gunshot wounds.

On August 13, progovernment supporters attacked a group of journalists in front of the government-owned Avila television station who were distributing flyers pro-

testing press restrictions in the educational reform law passed that day. The attackers hit the journalists with bats and filled bottles and injured 12. On August 17, authorities issued two arrest orders for suspects, one of whom was apprehended, and at year's end an investigation continued.

The government sought to control and/or limit the scope of independent news coverage by controlling licensing requirements and censoring advertising content.

The law requires that practicing journalists have journalism degrees and be members of the National College of Journalists, and it prescribes three- to six-month jail terms for those practicing illegally. These requirements are waived for foreigners and opinion columnists.

The law empowers the government to impose heavy fines and cancel broadcasts, and the National Telecommunications Commission (CONATEL), the government regulatory agency, oversees the law's application. Media-observer organizations called on the government to appoint an independent body to regulate the implementation of the law, which it had not done by year's end.

The government continued to use administrative and criminal investigations against private television station Globovision. For instance, on May 8, CONATEL opened an investigation into Globovision's coverage of the May 4 earthquake, charging that the network might have incited panic. President Chavez and other officials asserted that Globovision panicked the public because it broadcast foreign seismic data instead of the government's (which had been unavailable at the time). On September 7, CONATEL opened a sixth administrative proceeding against Globovision following its September 3 broadcast of text messages that alerted viewers to a possible coup and called for persons to resist the government; a government minister asked prosecutors to open a criminal investigation into the broadcast.

The government also restricted broadcasting during the year; examples follow:

On July 3, CONATEL initiated an administrative proceeding against four television and two radio stations for broadcasting an advertising campaign opposing pending private-property-rights legislation, and it ordered the advertisements off the air. Authorities also opened criminal investigations against two media organizations and the newspaper *Últimas Noticias* for printing similar ads; courts dismissed the latter cases on procedural grounds, but prosecutors appealed.

On September 21, the government gazette published a regulation that would require all radio stations to carry at least 5.5 hours of programming by local/independent producers, 3.5 hours of which the MINCI would dictate. The regulation would also limit the amount of time a single independent producer could broadcast content per day—a limit which, if enforced, could severely limit syndicated radio shows in the country. At year's end the regulation had not taken effect.

On December 22, CONATEL issued another regulation extending government broadcasting requirements—including the requirement mandating the showing of government broadcasts (known as “cadenas”)—to channels on subscription cable networks determined to have 30 percent or more national production. CONATEL was analyzing the cable networks at year's end.

In July the government announced its intention to review the licenses of 240 radio stations for allegedly failing to comply with registration or tax requirements. On July 31, Minister of Public Works and Housing (and CONATEL Director) Diosdado Cabello announced the closure of 32 radio stations and two television stations for alleged procedural, licensing, or tax violations. On September 7, the government announced its intention to close another unspecified 29 radio stations. Minister Cabello also announced that CONATEL had begun studying the possible reassignment of revoked frequencies to other stations or organized communities for the creation of community radio stations. Media owners and watchdog groups expressed concern that permission to operate radio stations would be issued predominantly to government supporters. At year's end the 34 closed stations remained closed, and the others remained under threat of closure.

Some of the notable developments in defending press freedom during the year were as follows:

On March 16, IAPA issued a resolution condemning violence against journalists, media outlets, and media executives as well as pressure against independent media companies. In a November 10 general assembly resolution, IAPA criticized the country's laws and rejected government actions against media executives and journalists.

On May 21, the NGO Human Rights Watch (HRW) called on the government to end its persecution and harassment of Globovision. On May 22, the UN special rapporteur on the promotion and protection of the right to freedom of opinion and expression and the IACHR special rapporteur for freedom of expression jointly stated their concern about senior government officials' comments against Globovision and other privately owned media outlets.



During August 1-3, there were demonstrations against the government's decision to shut down 32 radio stations. Many international groups denounced both the station closings and a proposed media law then under consideration by the National Assembly. On August 3, the UN special rapporteur and the IACHR separately expressed deep concern about the closings of 32 radio and two television stations, and on August 14, IAPA condemned the August 3 violence against the media and Globovision.

In January a court convicted the suspected 2008 killer of Caracas journalist Javier Garcia and sentenced him to 15 years' imprisonment.

There were no known developments in the cases of the June 2008 killing of Pierre Fould Gerges, vice president of *Reporte Diario de la Economia*, and the September 2008 shooting of columnist Eliecer Calzadilla, a contributor to the regional newspaper *Correo del Caroni*.

There were no developments in the November 2008 investigations by CONATEL of Globovision for October broadcasts of comments allegedly inciting the assassination of the president and of a speech by the Carabobo State governor-elect that allegedly incited violence.

There were no known developments in the cases of the July 2008 assault by Maracaibo city officials on two journalists from *La Verdad* newspaper in Zulia State, and the December 2008 attack by progovernment supporters on a Valencia journalist in Carabobo.

In November a new trial was ordered in the September 2004 murder of Maturin journalist Mauro Marcano. The accused remained in custody at year's end.

On January 28, the Inter-American Court of Human Rights found the government responsible for failing to prevent attacks, threats, and harassment against employees and reporters both of RCTV during the period 2001-04 and of Globovision during the period 2001-05. The court ordered the government to conduct investigations in order to determine responsibilities; to avoid illegal restrictions and hindrances on the freedom to seek, receive, and impart information; and to report to the court within one year on compliance measures taken.

*Internet Freedom.*—The International Telecommunication Union reported that in 2008 approximately 25 percent of the population accessed the Internet. There were no government restrictions on access to the Internet, and individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Some media NGOs expressed concern that the government monitored e-mails and Web searches.

*Academic Freedom and Cultural Events.*—There were some government restrictions on academic freedom and cultural events. Government supporters often disrupted university classes, marches, and rallies and used violence and intimidation to discourage students from political participation.

On January 18, unknown assailants blew up the pickup truck of the president of the Federation of University Centers-Central University of Venezuela (FCU-UCV). A principal adviser to the FCU-UCV complained in May of weekly attacks on its leaders.

In March and May the media reported that officials of the previous pro-Chavez Miranda State government (2003-08) pulped 62,262 books for counterrevolutionary ideological content, accusations that the government denied.

On August 19, approximately 40 masked men interrupted classes and fired guns at the University of the Andes in Merida, saying they were looking for opposition-oriented students, and injured two law school students and three professors. At year's end there was no information available regarding an investigation.

In August the National Assembly passed an educational reform law consolidating control over the public and private educational systems. Opposition parties, teachers, parents, and students widely complained that the law eliminated university autonomy and subjected teachers and students to ideological litmus tests, and there were demonstrations against it. Catholic school advocates expressed concern that the law could prevent private religious schools from receiving financial support from private international associations. At year's end the new law had not yet been implemented.

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

Human rights groups continued to criticize the 2005 penal code revision for its strict penalties on some forms of peaceful demonstration. PROVEA expressed concern over the law's "criminalization" of protests. Penal Forum's 2006 complaint before the Supreme Court challenging this measure's legality remained unheard at year's end.

The media reported on June 5 that authorities opened 50 judicial proceedings in the first half of the year against students, workers, and other citizens for participating in demonstrations. According to the NGO Public Space, during the first eight months of the year, out of a total of 2,079 public demonstrations, police and security forces suppressed 130, resulting in a total of 461 injuries among participants and 440 arrests. PROVEA noted that 584 injuries resulted from security-force interventions in peaceful demonstrations during the year.

On May 5, PROVEA and COFAVIC appealed for government investigations into excessive police force used against demonstrators and urged the government to respect the right of protest.

Among the examples of government disruptions of demonstrations were the following:

On January 20, police used tear gas, plastic bullets, and water cannons to disperse a demonstration involving several thousand students gathered in Caracas to protest the February referendum. Government forces arrested four students and claimed to have confiscated Molotov cocktails, sacks of stones, and a gasoline container. The minister of justice stated that the students did not have a protest permit, and the president denounced the demonstration.

During May 1 Labor Day marches, opposition demonstrators complained that members of the Caracas Metropolitan Police and National Guard prevented entrance to Carabobo Park and dispersed them with tear gas, rubber bullets, and water cannons. Police blamed students for initiating the confrontation; the opposition alleged the government infiltrated provocateurs into the student march.

During August 22 protests in Caracas against the educational reform law, the National Guard used tear gas, water cannons, and rubber bullets against demonstrators, claiming they were responding to rock and bottle throwing by demonstrators and to the dismantling of a police barricade. Media coverage showed largely peaceful protestors, although the National Guard chief claimed protestors were inciting violence. (See also section 1.e., Political Prisoners and Detainees.)

*Freedom of Association.*—While the constitution provides for freedom of association and freedom from political discrimination, the government only partially respected this right. Although indicating that they generally operated without interference, professional and academic associations complained that the National Electoral Council (CNE)—which is responsible for convoking all elections, and establishing dates and procedures for them—repeatedly interfered with their attempts to hold internal elections. The systematic political discrimination that HRW attributed to the Chavez administration in its September 2008 report continued during the year.

*c. Freedom of Religion.*—The constitution provides for freedom of religion on the condition that its practice does not violate public morality, decency, or public order, and the government generally respected this right in practice. There were some efforts by the government to limit the influence of religious groups in certain geographic, social, and political areas.

In November authorities arrested six persons in connection with the December 2008 killings of an evangelical preacher, his wife, and daughter in San Jose de Guanipa. A trial was pending at year's end.

The Directorate of Justice and Religion in the Ministry of Interior and Justice maintains a registry of religious groups and disburses funds to religious organizations. Registration, involving largely administrative requirements, is required for legal status as a religious organization.

Foreign missionaries are required to have a special visa to enter the country, and they noted continuing difficulties, including refusals for first-time religious visas and, less frequently, for renewals. The government continued to prohibit foreign missionary groups from working in indigenous areas.

*Societal Abuses and Discrimination.*—Government officials criticized specific Catholic bishops and the papal nuncio on several occasions and warned them to refrain from commenting on political issues.

In 2007 the Vatican granted political asylum to opposition student leader Nixon Moreno in the Holy See mission in Caracas; thereafter the government denied Moreno permission to leave the country. On January 19 and February 5, unknown perpetrators threw tear gas canisters at the mission, and on March 9, Moreno fled the mission, reportedly fearing that progovernment supporters would forcibly extricate him. March issues of the progovernment daily *Diario Vea* featured numerous articles and political cartoons accusing the nuncio and the Catholic Church of complicity in Moreno's departure, although no evidence was offered. In late October Peru granted Moreno political asylum.

There were an estimated 11,000 Jews in the country. Government-affiliated media outlets broadcast or printed numerous anti-Semitic comments. There was an increase in anti-Semitic vandalism, caricatures, and expressions at rallies and in newspapers. The host of *The Razorblade*, a progovernment talk show on state television, made frequent anti-Semitic slurs, and government-owned *Diario Vea* regularly published anti-Semitic comments. Incidents of sprayed graffiti, intimidation, vandalism, and other physical attacks against Jewish institutions were frequent.

Anti-Semitism was not officially condoned by the government, but in January following Israel's operations in Gaza, the government convoked several anti-Israel demonstrations and equated Israeli military actions against Palestinians to the Holocaust. These activities were accompanied by an increase in anti-Semitic rhetoric and graffiti, including vandalism of properties owned by Jews. President Chavez called on the Jewish community to denounce Israel's military actions, remarks interpreted by Jewish community members as intimidation.

On February 9, prosecutors charged eight police officers and three others in connection with the January 30-31 armed attack on and vandalization of Tiferet Israel Synagogue in Caracas, an attack the government condemned. Eleven suspects remained in prison at year's end awaiting trial.

On February 26, unknown assailants threw a small explosive device into the Caracas Hebrew Center. No investigation results were known at year's end.

For a more detailed discussion, see the 2009 International Religious Freedom Report at [www.state.gov/j/drl/rls/irf/](http://www.state.gov/j/drl/rls/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. There were individual complaints that government agencies denied passports and other official documents if individuals signed the petition in support of the 2004 recall referendum.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers.

The law prohibits forced exile, and it was not used.

*Protection of Refugees.*—The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The UNHCR reported 14,317 (cumulative) applicants for refugee status in the country as of December, of whom 1,211 (cumulative) were recognized as refugees by the government. The UNHCR estimated that there were an additional 200,000 persons in need of international protection. During the year 2,796 persons applied for refugee status.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The National Committee for Refugees had limited physical and human resources to address refugee issues, in addition to a lengthy process for examining individual refugee applications.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right through periodic free and fair elections based on universal suffrage.

*Elections and Political Participation.*—In 2006 voters reelected Hugo Chavez as president. Official observation missions from the European Union and the OAS deemed the elections generally free and fair but noted some irregularities.

In a February referendum deemed generally free and fair by international observers notwithstanding scattered reports of irregularities, voters approved a proposal to eliminate term limits for all elected officials. Before the referendum, the Venezuelan Episcopal Conference (CEV), opposition political parties, and leading NGOs questioned the legality and legitimacy of the referendum on the basis of the 2007 electoral defeat of a constitutional reform package that had included the elimination of presidential term limits. Prior to the February vote, those opposed to the referendum held a large number of demonstrations throughout the country (see section 2.b.).

During the year the central government and the National Assembly removed most of the responsibilities and funding from the Office of the Mayor of Greater Caracas, held by opposition leader Antonio Ledezma. In early January the government revoked the mayor's authority over the police force, hospital system, and sports and recreation facilities. On January 16, 40 armed masked men took over the Caracas city hall, tied up security guards, and refused access to the mayor and staff. On February 5, a conflict erupted between the mayor's staff and personnel from the Ministries of Housing and Culture; the media reported that an armed group attacked the mayor's staff. In April the National Assembly approved a law that transferred control of the city's budget and resources to a newly created position of vice president of the capital district, appointed by the president. Opposition parties protested this move as antidemocratic and undermining voter choice.

On August 12, President Chavez approved a new election law (passed by the National Assembly on July 31) that changed the country's proportional representation system to advantage majority parties greatly and gave the CNE broad discretion in redrawing voting-district boundaries and establishing electoral regulations and timetables. Smaller political parties expressed concern that the law would disadvantage them in the 2010 National Assembly election.

Opposition political parties operated in an atmosphere characterized by intimidation, violence, and restricted media access. Opposition political leaders and their families suffered physical assaults by unknown assailants and selective prosecutions. Progovernment militant groups—including "La Piedrita," "Alexis Vive," and "Los Tupamaros"—frequently issued threats against opposition figures (see also sections 1.e. and 2.a.).

On January 20, a progovernment group headed by Lina Ron stormed the meeting hall of a small political party (Bandera Roja), fired weapons, threw tear gas, and forced the building's evacuation. There was no police response.

On February 19, Carlos Azuaje, the brother of a National Assembly deputy, was shot and killed in Barinas. The deputy, who was expelled from the ruling PSUV in 2008 after accusing the Chavez family of corruption, blamed the killing on the Barinas governor, the president's brother, whom he accused of "inciting" the crime. Authorities arrested two suspects in the killing. A court convicted and sentenced one to 20 years' imprisonment in November; the second suspect's trial was pending at year's end.

On September 14, the IACHR recommended that the government annul the disqualification of the former opposition mayor of Chacao, Leopoldo Lopez, and other current and former public officials whom the comptroller general had declared ineligible to run for elected office in 2008 based on allegations of misappropriation of public funds and corruption.

Following are examples of prosecutions of several key opposition leaders that were widely considered politically motivated and appeared selective:

On March 19, authorities issued an arrest warrant for Maracaibo mayor and 2006 opposition presidential candidate Manuel Rosales on charges of illicit enrichment. Rosales went into hiding and eventually received political asylum in Peru. He stated that he did not believe he would have received a fair trial had he remained in-country.

In early April authorities detained retired general Raul Baduel, former minister of defense and former ally of President Chavez, in a military prison on corruption charges that authorities originally had filed in October 2008. At year's end Baduel remained in detention and a trial was continuing.

On April 24, authorities issued an arrest warrant for former Guarico State governor Eduardo Manuitt, a former government ally, for alleged embezzlement. On December 21, based on these charges, the comptroller general declared Manuitt ineligible to run for elected office for 15 years.

In August authorities filed corruption charges against former government ally and former Aragua State governor Didalco Bolivar, who fled the country and sought political asylum abroad.

In October the comptroller general opened an investigation against opposition Miranda State Governor Henrique Capriles Radonski for alleged corruption, tax evasion, and other financial crimes. Capriles also remained subject to old charges related to a violent demonstration in April 2002 outside the Cuban Embassy. Prosecutors reopened this case after a court of appeals annulled an October 2008 acquittal.

On December 8, a court issued arrest warrants for former Sucre State governor Ramon Martinez, an ally-turned-critic of the president, and his son, on allegations of irregularities in housing development and fishing projects.

There were 29 women in the 167-seat National Assembly, five women in the 27-member cabinet, and 10 women among the 32 justices on the Supreme Court.

The constitution reserves three seats in the National Assembly for indigenous persons, which were filled in the 2000 election and remained occupied during the year. There is one indigenous member of the cabinet.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for corruption by government officials; credible observers alleged the government did not implement the law effectively or fairly and frequently prosecuted its political opponents selectively on corruption charges to harass, intimidate, or imprison them.

The World Bank's governance indicators reflected that government corruption was a serious problem. There was a perception of widespread corruption at all government levels. Journalists reported several cases of apparent corruption implicating high-level government officials, but none was investigated.

Public officials are not subject to financial disclosure laws. The government agency responsible for combating government corruption is the Comptroller General's Office.

The law provides for citizen access to government information. Human rights groups reported that the government routinely ignored this requirement and their requests, did not make government information available, and usually did not give a reason for not providing it.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of independent domestic and international human rights groups generally operated with some government restrictions, and government officials were somewhat responsive to their views. Major domestic human rights NGOs that operated independently from the government included COFAVIC, PROVEA, Network of Assistance, and the OVP.

In late May the government prohibited the attendance of three prominent civil society organizations (Active Citizenry, Public Space, and Transparency Venezuela) at the OAS General Assembly.

Many domestic NGOs reported threats, physical attacks, and harassment.

On July 9, the Inter-American Court of Human Rights removed the 2002-05 protection orders granting COFAVIC employees and its executive director, Lilian Ortega, a security detail. COFAVIC expressed concern about continued threats to their personal safety.

Government and ruling-party officials publicly criticized OVP Director Humberto Prado numerous times during the year. For example, in a March 19 television interview, PSUV political leader Gerson Perez accused Prado of promoting prison hunger strikes, and in a July university seminar, National Assembly Deputy Pedro Infante accused Prado of working with prison leaders to orchestrate hunger strikes.

The director of the NGO Window to Liberty, Carlos Nieto Palma, reported threats on August 19 from three police officers who visited his home.

The government continued to reject IACHR requests to conduct a human rights monitoring visit in the country, and by year's end no such permission had been granted. In October students demanded such an IACHR visit as one of the conditions for ending their hunger strike (see section 1.e.). The government's representative to the IACHR, German Saltron, told the press that the government would not accept such a visit because it objected to the continued tenure of IACHR Executive Secretary Santiago Canton due to his alleged support of the 2002 attempted coup. Students lifted a second hunger strike in December following a one-day visit by IACHR staff members to Caracas.

On November 25, the IACHR filed a case asking the Inter-American Court to order the government both to reinstate or compensate Mercedes Chocron Chocron for her arbitrary removal in 2003 as a temporary judge of the Metropolitan Caracas Criminal Court of First Instance and also to adopt "clear criteria and ensure guarantees in the appointment, tenure, and removal of judges."

In December 2008 the Supreme Court rejected and criticized the Inter-American Court judgment seeking reinstatement of three of the country's judges to the First Court of Administrative Disputes, a judgment that found the 2003 removal of the judges to be a violation of due process and that ordered reinstatement and compensation.

On June 30, the Inter-American Court ordered reinstatement of Judge Reveron Trujillo, who had been removed in 2002.

On August 27, two unknown persons shot at Jose Luis Urbano, president of the Foundation for the Defense of the Right to Education, near the city of Barcelona. Injured in a 2007 shooting attack, Urbano and other members of the foundation have been repeatedly targeted by unknown assailants and received death threats

after having publicly condemned corruption and violations of the right to free education.

Although the ombudsman, named by the National Assembly, is responsible for ensuring that citizen rights are protected in a conflict with the state, human rights NGOs claimed that the Ombudsman's Office was not independent and rarely acted on public interest cases, and that the ombudsman was chosen in 2007 in a non-transparent process. Reports or recommendations issued by the office were not widely available.

The National Assembly's Subcommission on Human Rights played an insignificant role in human rights debates.

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

Although the law prohibits discrimination based on race, gender, disability, language, or social status, discrimination against women, persons with disabilities, and indigenous persons was a problem.

*Women.*—The law prohibits rape, including spousal rape. It is punishable by prison terms of eight to 14 years, although cases often were not reported to the police. A man may avoid punishment by marrying his victim before sentencing. There were no reliable statistics on the incidence of, or prosecutions or convictions for, rape.

The law prohibits domestic violence, and penalties range from six to 27 months in prison. Violence against women continued to be a problem. In October Supreme Court Justice Yolanda Jaimes Guerrero stated, "Every 15 minutes a woman is the victim of abuse by her partner. Every 10 days a woman dies in Caracas, the victim of violence by her husband, lover, or partner."

Women faced substantial institutional and societal prejudice with respect to reporting rape and domestic violence. The law criminalizes physical, sexual, and psychological violence in the home, the community, and at work, as well as trafficking, forced prostitution, sexual harassment, and slavery; it also establishes women's bureaus at local police headquarters and tribunals specializing in gender-based violence. Justice Jaimes Guerrero reported that between June 2008 and October 2009, the 29 specialized tribunals had received 55,916 cases, of which 23,443 had been processed. There was no information available on the results of these tribunal cases.

The law requires police to report domestic violence to judicial authorities and obligates hospital personnel to notify the authorities when they admit patients who are victims of domestic abuse. Police generally were reluctant to intervene to prevent domestic violence. Justice Jaimes Guerrero reported in October that the Public Ministry was investigating approximately 124,000 complaints of violence against women, although there was no publicly available information regarding the number of indictments, prosecutions, or convictions resulting from these investigations. The government sought to combat domestic violence through a public awareness campaign and a national victim-assistance hotline administered by the government's National Women's Institute (INAMUJER). According to the Director for the Prevention and Attention to Violence against Women, Florangel Parodi, between January and September there were 127,133 calls to the women's hotline. There were no reliable statistics available on the incidence of, or prosecutions or convictions for, domestic violence.

Prostitution is legal. While there was no government information on the extent of prostitution, the local antitrafficking NGO Association of Women for Welfare and Mutual Help noted that prostitution was a serious problem, particularly in Caracas and domestic tourist destinations.

Sexual harassment is illegal and punishable by a prison sentence of one to three years. Sexual harassment was allegedly common in the workplace, but cases were rarely reported.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. Women and men were generally given equal access to diagnostic services and treatment for sexually transmitted infections.

Women and men are legally equal in marriage, and the law provides for gender equality in exercising the right to work. The law specifies that employers must not discriminate against women with regard to pay or working conditions. According to the Ministry of Labor and the Confederation of Workers (CTV), these regulations were enforced in the formal sector, although women reportedly earned 30 percent less than men on average. INAMUJER worked to protect women's rights but did not make statistics publicly available.

The law provides women with property rights equal to those of men. In practice, however, women frequently waived these rights by signing over the equivalent of power of attorney to their husbands.

*Children.*—Citizenship is derived by birth within the country's territory. According to the UN Children's Fund (UNICEF), thousands of children were not officially registered at birth.

According to UNICEF and NGOs working with children and women, child abuse, including incest, occurred but was rarely reported. Although the judicial system acted to remove children from abusive households, public facilities for such children were inadequate and had poorly trained staff.

Under the law, sexual relations with a minor (under age 13) or an "especially vulnerable" person, or with a minor (under age 16) when the perpetrator is a relative or guardian, are punishable with a mandatory sentence of 15 to 20 years' imprisonment. Some children were occasionally engaged in commercial sexual exploitation and pornography. The law prohibits the production and sale of child pornography and establishes penalties of 16 to 20 years' imprisonment.

The human rights NGO For the Rights of Children and Adolescents estimated that 15,000 children lived on the streets. Authorities in Caracas and several other jurisdictions imposed curfews on unsupervised minors to attempt to cope with this problem, but with institutions filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in inadequate juvenile detention centers. The government's social service mission (Mision Negra Hipolita) provided assistance to street children and the homeless.

*Trafficking in Persons.*—The constitution prohibits slavery or servitude, and the law prohibits transnational trafficking in persons; however, there were reports of trafficking to, from, and within the country.

According to NGOs, the country was a source, destination, and transit country for men, women, and children trafficked for the purposes of commercial sexual exploitation and forced labor. An underdeveloped legal framework, economic conditions, and the relative ease with which fraudulent passports, identity cards, and birth certificates could be obtained created favorable conditions for trafficking. The Foreign Ministry reported in late November that police conducted 15 investigations and detained 11 persons in 2008-09 for trafficking crimes and that there were seven cases of repatriation of persons who had been trafficked abroad (to Trinidad and Tobago, Spain, and Romania) for sexual or labor exploitation; at year's end no further information was available.

According to a range of international organizations and NGOs, women and children from Brazil, Colombia, Peru, Ecuador, the Dominican Republic, and the People's Republic of China were reportedly trafficked to and through the country and subjected to commercial sexual exploitation or forced labor. Citizens were reportedly trafficked internally and to Western Europe, particularly Spain and the Netherlands, and to destinations in the region such as Mexico, Aruba, Curacao, the Dominican Republic, and Trinidad and Tobago for commercial sexual exploitation. The country was a transit country for undocumented migrants from other places in the region—particularly Peru and Colombia—and for Asian nationals, some of whom were believed to be trafficking victims. Subgroups particularly at risk included women and children from poor areas.

Organized criminal groups were widely believed to be involved in trafficking women and children to and through the country. Traffickers traveled to transport victims to large urban centers or resort destinations. In many cases traffickers reportedly placed ads for models in regional newspapers and then lured respondents to Caracas and other urban areas under false pretenses of employment.

Trafficking may be prosecuted under criminal laws against forced prostitution and trafficking, with penalties of up to 20 years for using force to coerce a victim to perform a sexual act for a third person, and under a law to protect children, with fines of one to 10 months' income for trafficking in children and two to six years' imprisonment for trafficking a child abroad. The law provides for sentences of 10 to 15 years in prison if the victim is an adult (or up to 18 years if the victim is a child or adolescent).

Government efforts to combat trafficking are the responsibility of the Public Prosecutor's Family Protection Directorate, the National Institutes for Women and Minors, and the Interior and Justice Ministry's Crime Prevention Unit, which is under the jurisdiction of the Vice Ministry of Citizen Security. Enforcement efforts generally were limited.

In some cases the government provided trafficking victims with psychological and physical examinations, but it did not operate shelters specifically for trafficking victims. The government operated a hotline and conducted information campaigns of uncertain effectiveness to prevent future trafficking cases.

The Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/j/tip](http://www.state.gov/j/tip).

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with physical and mental disabilities in education, employment, health care, and the provision of other state services. Persons with disabilities had minimal access to public transportation, and ramps were practically nonexistent. The law requires that all newly constructed or renovated public parks and buildings provide access and prohibits discrimination in employment practices and in the provision of public services; however, the government did not make a significant effort to implement the law, inform the public of it, or combat societal prejudice against persons with disabilities.

*Indigenous People.*—The law prohibits discrimination based on ethnic origin, and senior government officials repeatedly stated support for indigenous rights. However, there were complaints from some organizations and in the media of government mismanagement and paternalistic attitudes toward the indigenous population. Of the country's approximately 300,000 indigenous persons in 27 ethnic groups, many were isolated from urban areas, lacked access to basic health and educational facilities, and suffered from high rates of disease. The government included indigenous persons in its literacy campaigns, in some cases teaching them to read and write in their native languages as well as in Spanish.

The law creates three seats in the National Assembly for deputies of indigenous origin and also provides for "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom took account of indigenous interests when making decisions affecting indigenous lands, cultures, traditions, or the allocation of natural resources. Indigenous persons called on the government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

Conflict between cattle ranchers/landowners and indigenous persons occurred sporadically. Civil society organizations criticized a government land-transfer program, which gave private dairy farms in Zulia State to the Yukpa indigenous group, for causing tension and violence in the region. Following the alleged theft of 124 cattle on October 11, three Yukpa tribe members were killed, allegedly by other Yukpa members, on October 13. Authorities detained one Yukpa community leader that month in connection with the killings, but no further information was available at year's end.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The constitution provides for equality before the law of all persons and prohibits discrimination based on sex or social condition. On this basis, the Supreme Court ruled in March 2008 that no individual may be discriminated against by reason of sexual orientation in any way that implies treatment in an unequal fashion. This prohibition was generally respected in practice.

There were no reliable statistics on societal violence or discrimination based on sexual orientation, although violence against lesbian, gay, transgender, and bisexual communities reportedly occurred during the year. The media reported that four transgender persons were killed in Caracas between November 2008 and May and that nine transgender persons were killed in Caracas and Zulia State between January and October. The media also noted that victims of hate crimes based on sexual orientation frequently did not report the incidents.

*Other Societal Violence or Discrimination.*—According to the NGO Citizen Action against AIDS, persons diagnosed with HIV/AIDS frequently were discriminated against at the workplace and often were refused access to government health services.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—While the law provides that all private and public sector workers (except armed forces members) have the right to form and join unions of their choice, according to labor sources and media reports the government continued to undermine this right by restricting the composition of union leadership and refusing to negotiate collective bargaining agreements. Approximately 10 to 12 percent of the 12-million-person labor force was unionized.

Although the law recognizes the right of all public and private sector workers to strike in accordance with conditions established by labor law, public servants may strike only if the strike does not cause "irreparable damage to the population or to institutions." Replacement workers are not permitted during legal strikes, and the president may order public or private sector strikers back to work and submit their disputes to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population."

There were no government-provided statistics available on newly registered trade union organizations during the year, but other sources estimated that the number



of such organizations remained relatively stable at approximately 6,200. According to labor leaders, the government was responsible for many of these organizations, as it sought to create “parallel” unions to dilute the membership and effectiveness of traditional unions.

The CNE has the authority to administer internal elections of labor confederations. Labor unions complained of long delays in obtaining CNE concurrence to hold such elections and in receiving certification of the election results.

According to union leaders, the government organized groups of parallel construction unions to attack and intimidate construction workers affiliated with the CTV to gain control of lucrative construction projects. According to PROVEA, 46 reported deaths were associated with union clashes from October 2008 through September 2009. According to statistics maintained by a respected academic, there was an average of 75 new or ongoing labor conflicts each month between January and August.

At year’s end the government continued to refuse to adjudicate or resolve the cases of 19,000 state-owned petroleum-company employees who were fired during and after the 2002-03 national strike. The Ministry of Labor continued to deny registration to UNAPETROL, a union composed of these workers.

The International Trade Union Confederation (ITUC) 2009 Annual Survey of violations of trade union rights reported that labor conflicts (related to recruitment practices in the construction and oil sectors and, to a lesser extent, in basic industries) generated acts of violence ranging from physical and verbal assaults to killings. According to PROVEA, in the period between September 2008 and October 2009, at least 88 workers, including 16 union leaders, were affected by violence. The ITUC survey also stated that the president called on trade unions to join the PSUV.

In January authorities charged and detained Julio Cesar Arguinzonez in connection with the November 2008 killings of three trade union leaders (Richard Gallardo, Carlos Jose Requena, and Luis Hernandez) in Aragua State at the time of a collective bargaining dispute. The April preliminary court hearing accepted the indictment and ordered that Arguinzonez remain in custody pending trial.

*b. The Right to Organize and Bargain Collectively.*—The law provides that all public and private sector workers have the right to conduct their activities without interference and protects collective bargaining. The law stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The International Labor Organization (ILO) objected to this provision and requested that the government amend it. Due to the expired status of many public sector collective bargaining agreements, only 9 percent of the sector’s workers were covered by them.

On July 14, Energy and Petroleum Minister Rafael Ramirez told oil and gas workers that he would not negotiate a new collective bargaining agreement with unions unresponsive of the government. After seven postponements, the CNE convoked union elections in October, and the government-supported slate of candidates won—with substantial financial support from both the state-owned petroleum company and the government and with the open endorsement of the minister and other officials.

According to PROVEA, more than two million public sector employees worked under expired collective agreements during the year. The leader of the largest national union federation, the National Workers’ Union, stated that the framework agreement for public administration has not been discussed for four years and the one covering Labor Ministry employees has not been discussed for 17 years. There were no developments reported during the year concerning the formal complaint lodged with the ILO by the Teachers’ Federation and its 27 affiliated organizations to request that the government restore its collective bargaining rights, which were blocked in 2006.

There are no special laws or exemptions from regular labor laws in the sole export processing zone.

*c. Prohibition of Forced or Compulsory Labor.*—While the law prohibits forced or compulsory labor, including by children, there were reports of trafficking in children for employment purposes, particularly in the informal economic sector (see also section 7.d.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforced child labor policies effectively in the formal sector of the economy but less so in the informal sector.

Children most frequently worked in agriculture, retail trade, hotels, restaurants, manufacturing, and community and social services. The Community Center of Apprenticeship, a domestic NGO promoting the rights of children, estimated that there were approximately one million minors working and that a large percentage of them

did not receive the salary and benefits due to them under the law. According to the government, in 2006, 131,902 boys and 10,196 girls worked in the agricultural sector, 3,772 boys and 10,285 girls worked in industrial manufacturing, and 36,106 boys and 746 girls worked in construction. Indigenous children were reportedly trafficked and forced to work as miners and prostitutes in illegal gold mining camps.

The law sets the minimum employment age at 14 years and permits children ages 12 to 14 to work only if the National Institute for Minors or the Ministry of Labor grants special permission. Children ages 14 to 16 may not work without the permission of their legal guardians. Those under 16 years of age may work no more than six hours per day or 30 hours per week. Minors under the age of 18 may work only between 6 a.m. and 7 p.m. Minors may not work in mines or smelting factories, in occupations that risk life or health or could damage intellectual or moral development, or in public spectacles. Fines are established for employing children ages eight to 11 and for employing a 12- or 13-year-old without authorization. Employing a child younger than eight years of age is punishable by one to three years' imprisonment. Employers must notify authorities if they hire a minor as a domestic worker.

The law prohibits inducing the prostitution and corruption of minors. Penalties range from three to 18 months in prison and up to four years in prison if the minor is younger than 12 years old. If the crime is committed repeatedly or for profit, it is punishable by three to six years' imprisonment. Prison sentences for inducing a minor into prostitution are increased by up to five years if various aggravating circumstances occur. Penalties for several crimes relating to child prostitution do not apply if the perpetrator marries the victim. The law establishes sentences of one to three years' incarceration for forced child labor. There were no substantiated reports that these penalties were enforced.

The Ministry of Education, Culture, and Sports ran educational programs to reincorporate school dropouts and adults into the educational system, and the government also continued to provide services to vulnerable children, including street children, working children, and children at risk of working. However, there was no independent accounting of the effectiveness of these programs.

*e. Acceptable Conditions of Work.*—The minimum wage is established and updated annually by the Ministry of Labor, which according to law should consult publicly when proposing changes. However, union leaders alleged the ministry does not carry out such consultations.

On April 30, President Chavez announced a 20 percent increase in the monthly minimum wage and in the salaries of all public sector employees. This increase was implemented in two increments—the first 10 percent as of May 1 and the second 10 percent as of September 1—for a total of 966.79 Bs.F (approximately \$450). The 20 percent increase was below the country's recent annual inflation rate of 25-30 percent, so workers receiving it suffered a decline in real annual purchasing power. The minimum wage did not provide a decent standard of living for a worker and family. The Labor Ministry enforced minimum wage rates effectively in the formal sector, but approximately half the population worked in the informal sector, where labor laws and protections generally were not enforced.

The law stipulates that the work week may not exceed 44 hours. Managers are prohibited from obligating employees to work additional time, and workers have the right to weekly time away from work. Overtime may not exceed two 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 effectively enforced these standards in the formal sector.

While the constitution provides for secure, hygienic, and adequate working conditions, authorities conducted infrequent inspections to implement the health and safety law. Employers are required to report work-related accidents, and the law obligates employers 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. Workplaces must maintain "sufficient protection for health and life against sickness and accidents," and penalties range from one quarter to twice the minimum monthly salary for first infractions. Numerous complaints of unsafe conditions, resulting in several deaths at state-owned industrial plants, continued in Bolivar State. In practice ministry inspectors seldom closed unsafe job sites. Under the law workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.

## APPENDIX A

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### Notes on Preparation of This Report

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The annual Country Reports on Human Rights Practices are based on information available from a wide variety of sources, including U.S. and foreign government officials, victims of human rights abuse, academic and congressional studies, and reports from the press, international organizations, and nongovernmental organizations (NGOs) concerned with human rights. We find particularly helpful, and make reference in the reports to, the role of NGOs, ranging from groups within a single country to those that concern themselves with human rights worldwide. While much of the information that we use is already public, information on particular abuses frequently cannot be attributed, for obvious reasons, to specific sources. This report reflects the Department of State's assessments and concerns with respect to the human rights situation around the world. The Department of States does not use sources or information it believes lack credibility.

By law, the Secretary of State must submit the Country Reports to Congress by February 25. The Country Reports cover respect for human rights in foreign countries and territories worldwide; they do not purport to assess any human rights implications of actions by the United States Government or its representatives, nor do they consider human rights implications of actions by the United States Government or of coalition forces in Iraq or Afghanistan. To comply with the congressional requirement for the reporting of human rights practices, we provide guidance to U.S. diplomatic missions in July for submission of draft reports in September and October, which we update at year's end as necessary. Other offices in the Department of State provide contributions, and the Bureau of Democracy, Human Rights and Labor prepares a final draft. Due to the submission deadline, the report may not reflect developments that became known only after the end of the year. We make every effort to include references to major events or significant changes in trends.

We have attempted to make the reports as comprehensive, objective, and uniform as possible in both scope and quality of coverage. We have paid particular attention to attaining a high standard of consistency in the reports despite the multiplicity of sources and the problems associated with varying degrees of access to information, structural differences in political, legal, and social systems. As highlighted in the Explanatory Notes, "generally respected" human rights is the standard phrase used to describe all countries that at-

tempt to protect human rights in the fullest sense, and is thus the highest level of respect for human rights assigned by this report.

Evaluating the credibility of reports of human rights abuses is often difficult. Most governments and opposition groups deny that they commit human rights abuses and sometimes go to great lengths to conceal any evidence of such acts. There are often few eyewitnesses to specific abuses, and they frequently are intimidated or otherwise prevented from reporting what they know. On the other hand, individuals and groups opposed to a government sometimes have powerful incentives to exaggerate or fabricate abuses, and some governments similarly distort or exaggerate abuses attributed to opposition groups. We have made every effort to identify those groups (for example, government forces) or individuals who are believed, based on all the evidence available, to have committed human rights or other related abuses. Many governments that profess to oppose human rights abuses in fact secretly order or tacitly condone them or simply lack the will or the ability to control those responsible for them. Consequently, in judging a government's policy, the reports look beyond statements of policy or intent and examine what a government has done to prevent human rights abuses, including the extent to which it investigates, brings to trial, and appropriately punishes those who commit such abuses.

To increase uniformity, each country report begins with a brief overview that includes a description of the country's political structure and the extent to which civilian authorities control security agencies. The overview summarizes human rights developments during the calendar year, identifying abuses and notable specific improvements.

We have continued the effort from previous years to cover in the reports human rights problems affecting women, children, persons with disabilities, and indigenous people. The appropriate section of each country report discusses any abuses that are targeted specifically against women (for example, rape or other violence perpetrated by governmental or organized opposition forces, or discriminatory laws or regulations). In Section 6, we discuss socioeconomic discrimination; discrimination against persons with HIV/AIDS; societal violence against women, children, the gay, lesbian and transgender community, persons with disabilities, or ethnic minorities; and the efforts, if any, of governments to combat these problems.

The following notes on specific sections in each country report are not meant to be comprehensive descriptions but rather to provide an overview of the key problems covered and their organization:

*Arbitrary or Unlawful Deprivation of Life.*—Includes killings by governments without due process of law or where there is evidence of a political motive. This section also covers extrajudicial killings (for example, the unlawful and deliberate killing of individuals carried out by order of a government or with its complicity), as well as killings by police or security forces and actions that resulted in the unintended death of persons without due process of law. The section generally excludes combat deaths and killings by common criminals if the likelihood of political motivation can be ruled out.

Deaths in detention due to adverse conditions are covered in detail in the section on "Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment."

*Disappearance.*—Covers cases in which political motivation appears likely and in which the victims have not been found or perpetrators have not been identified. Cases eventually classified as political killings in which the bodies of missing persons are discovered also are covered in the previous section, while those eventually identified as having been arrested or held in detention may be covered under "Arbitrary Arrest or Detention."

*Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Covers torture (an act of intentionally inflicting severe pain, whether physical or mental) and cruel, inhuman, or degrading treatment or punishment committed by or at the instigation of government forces, including paramilitary forces, or opposition groups. The section discusses actual occurrences, not whether they fit any precise definition, and includes use of physical and other force that may fall short of torture but which is cruel, inhuman, or degrading, including judicially sanctioned violent or abusive punishment. There also may be discussion of poor treatment that may not constitute torture or cruel, inhuman, or degrading treatment. The section also covers prison conditions and deaths in prison due to adverse conditions.

*Arbitrary Arrest or Detention.*—Includes cases in which detainees, including political detainees, are held arbitrarily in official custody without being charged or, if charged, are denied a public preliminary judicial hearing within a reasonable period. The section also includes subsections on the role of the police and security apparatus, arrest and detention practices, and any amnesties that may have occurred during the year.

*Denial of Fair Public Trial.*—Describes the court system and evaluates whether there is an independent judiciary free of corruption and whether trials are both fair and public (failure to hold any trial is noted in the section above). The subsection "Political Prisoners and Detainees" covers persons convicted, imprisoned, or detained essentially for political beliefs or nonviolent acts of dissent or expression, regardless of the actual legal charge. The subsection "Civil Judicial Procedures and Remedies" inquires whether there is access to an independent and impartial court to seek damages for or cessation of an alleged human rights violation. The optional subsection "Property Restitution" is included if there is a systemic failure of a government to enforce court orders with respect to restitution or compensation for the taking of private property under domestic law.

*Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Includes government punishment of family members for alleged violations of law by individuals and efforts to coerce or forbid membership in a political organization. The reports discuss the right of the individual to noninterference by the state. It includes the right to receive foreign publications, for example, while the right to publish is discussed under "Freedom of Speech and Press." Includes the right to be free from coercive population con-

trol measures, including coerced abortion and involuntary sterilization, but does not include cultural or traditional practices, such as female genital mutilation, which are addressed under “Discrimination and Societal Abuses.”

*Use of Excessive Force and Other Abuses in Internal Conflicts.*—This optional section describes abuses in countries experiencing significant internal conflict. Includes indiscriminate, nonselective killings arising from excessive use of force, or by the shelling of villages (deliberate, targeted killing of civilians is discussed in the section on “Arbitrary or Unlawful Deprivation of Life”). This section also includes abuses against civilian noncombatants. For countries where use of this section would be inappropriate because there is no significant internal or external conflict, killings by security forces are discussed in the section on “Arbitrary or Unlawful Deprivation of Life”; nonlethal abuses are discussed in the section on “Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.”

*Freedom of Speech and Press.*—Evaluates whether these freedoms exist and describes any direct or indirect restrictions. A subsection (“Internet Freedom”) includes discussion of monitoring or restriction on the peaceful expression of opinion via the Internet. Another subsection, entitled “Academic Freedom and Cultural Events,” includes information on restrictions, intimidation, and censorship in these fields.

*Freedom of Peaceful Assembly and Association.*—Evaluates the ability of individuals and groups (including political parties) to exercise these freedoms. It considers instances of government failure to provide permits or licenses for meetings and demonstrations, as well as information on the ability of trade associations, professional bodies, NGOs, and similar groups to maintain relations or affiliate with recognized international bodies in their fields. The right of workers to associate, organize, and bargain collectively is discussed under the section on “Worker Rights” (see Appendix B).

*Freedom of Religion.*—Discusses whether the law provides for the right of citizens of any religious belief to worship free of government interference and whether the government generally respects that right. The section covers the freedom to publish religious documents in foreign languages; addresses the treatment of foreign clergy and whether religious belief or lack thereof affects membership in a ruling party, a career in government, or ability to obtain services and privileges available to other citizens. The subsection “Societal Abuses and Discrimination” reports societal violence, harassment and discrimination against members of religious groups. Examples of anti-Semitism, if applicable, are included in this subsection. The annual International Religious Freedom Report supplements the information in this section.

*Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The section discusses whether and under what circumstances governments exiled citizens, restricted foreign travel, especially for women, and revoked passports. It includes subsections “Internally Displaced Persons (IDPs)” (if applicable), “Protection of Refugees,” and “Stateless Persons” (if

applicable.) As defined in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, refugees are persons outside their country of origin or, if stateless, outside their country of habitual residence who have a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group, or political opinion, and who are unable or unwilling to avail themselves of the protection of that country. Under certain regional instruments, such as the Organization of African Unity convention governing the specific aspects of refugee problems in Africa, the term refugee may refer to persons displaced by civil strife, widespread violence, or natural disaster. The subsection "Protection of Refugees" reviews the government's extension of assistance and protection to refugees, including nonrefoulement, the provision of temporary protection, support for voluntary repatriation, longer term integration opportunities, and third country resettlement. It also covers abuse and discrimination against refugees. The subsection on stateless persons examines whether a country has habitual residents who are legally stateless (not recognized as nationals under the laws of any state) or de facto stateless (not recognized as nationals by any state even if these individuals have a claim to nationality under the laws of a particular state). The report reviews whether the government has effectively implemented laws and policies to provide such persons the opportunity to gain nationality on a nondiscriminatory basis. The subsection also examines, among other matters, whether there is violence or discrimination against stateless persons in employment, education, housing, health services, marriage or birth registration, access to courts, or the owning of property.

*Respect for Political Rights: The Right of Citizens to Change Their Government.*—Discusses the extent to which citizens have freedom of political choice and the legal right and ability in practice to change the laws and officials that govern them. The subsection "Elections and Political Participation" assesses whether elections were free and fair, including participation by women and minorities on an equal basis.

*Official Corruption and Government Transparency.*—Covers allegations of corruption in the executive or legislative branches of government and actions taken to combat it. Also, the section covers whether the public has access in law and practice to government information.

*Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights.*—Discusses whether the government permits the free functioning of local human rights groups (including the right to investigate and publish their findings on alleged human rights abuses), whether these groups are subject to reprisal by government or other forces, and whether government officials are cooperative and responsive to their views. The section also discusses whether the government grants access to and cooperates with outside entities (including foreign human rights organizations, international organizations, and foreign governments) interested in human rights developments in the country. Reports on national human rights commissions, par-

liamentary commissions, relations with international war crimes tribunals and truth or similar commissions.

*Discrimination, Societal Abuses, and Trafficking in Persons.*—Contains subheadings on Women; Children; Trafficking in Persons; Persons with Disabilities; Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity; and Other Societal Violence or Discrimination. If applicable, also includes subheadings on National/Racial/Ethnic Minorities, Indigenous People, and Incitement to Acts of Discrimination. The section addresses discrimination and abuses not discussed elsewhere in the report, focusing on laws, regulations, or state practices that are inconsistent with equal access to housing, employment, education, health care, or other governmental benefits for members of specific groups. (Abuses by government or opposition forces, such as killing, torture and other violence, or restriction of voting rights or free speech targeted against specific groups would be discussed under the appropriate preceding sections.)

The subsection “Women” discusses societal violence against women, e.g., “dowry deaths,” “honor killings,” wife beating, rape, female genital mutilation, and government tolerance of such practices, as well as the extent to which the law provides for, and the government enforces, equality of economic opportunity for women. A paragraph on reproductive rights reports on the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. The subsection “Children” discusses violence or other abuse against children.

The “Trafficking in Persons” subsection covers all acts involving the recruitment, harboring, transportation, provision, or obtaining of a person (man, woman, or child) for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Sex trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age. Reporting describes any legal prohibitions against trafficking; the extent to which the government enforces these prohibitions; the extent and nature of trafficking in persons to, from, or within the country, other geographic regions or countries affected by the traffic; the participation, facilitation, involvement or complicity of any government agents in trafficking; and aid or protection available to victims.

The subsection “Persons with Disabilities” covers discrimination against persons with physical or mental disabilities in, among other things, employment, education, and the provision of other government services. The subsection on “Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity” notes laws criminalizing sexual orientation and reports on discrimination against gays, lesbians, bisexual, and transgender persons.



*Explanatory Notes*

Occasionally the Country Reports on Human Rights Practices state that a country “generally respected” the rights of its citizens. The phrase “generally respected” is used because the protection and promotion of human rights is a dynamic endeavor; it cannot accurately be stated that any government fully respected these rights all the time without qualification in even the best of circumstances. Accordingly, “generally respected” is the standard phrase used to describe all countries that attempt to protect human rights in the fullest sense, and is thus the highest level of respect for human rights assigned by this report.

In some instances, Country Reports use the word “Islamist,” which should be interpreted by readers as a Muslim who supports Islamic values and beliefs as the basis for political and social life.

Since the Secretary of State designates foreign groups or organizations as foreign terrorist organizations (FTOs) on the FTO list, only those groups on the FTO list dated April 8, 2008 will be described as “terrorists” in the reports.

When describing whether a government provides “protection against refoulement,” the reports are referring to whether the government refrained from expelling or returning a refugee in any manner whatsoever to the frontiers of territories where his or her life or freedom would be threatened on account of race, religion, nationality, political opinion, or membership in a particular social group.

Subject headings in these reports are used to introduce general topics, and the report text that follows such headings is intended to describe facts generally relevant to those topics and is not intended to reach conclusions of a legal character.

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## APPENDIX B

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### Reporting on Worker Rights

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The 1984 Generalized System of Preferences (GSP) Renewal Act requires reporting on worker rights in GSP beneficiary countries. It states that internationally recognized worker rights include: “(A) the right of association; (B) the right to organize and bargain collectively; (C) a prohibition on the use of any form of forced or compulsory labor; (D) a minimum age for the employment of children; and (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.” All five aspects of worker rights are discussed in each country report under the section heading “Worker Rights.” The discussion of worker rights considers not only laws and regulations but also their practical implementation.

This discussion is informed by internationally recognized labor standards, including the Conventions and Recommendations of the International Labor Organization (ILO). Differences in the levels of economic development are taken into account in the formulation of the standards related to working conditions; such standards include freedom of association, the right to organize and bargain collectively, the prohibition of forced labor and child labor, and the absence of discrimination in employment. Some specific guidelines derived from international standards are discussed below.

- A. “The right of association” has been defined by the ILO to include the right of workers and employers to establish and join organizations of their own choosing without previous authorization; to draw up their own constitutions and rules, elect their representatives, and formulate their programs; to join in confederations and affiliate with international organizations; and to be protected against dissolution or suspension by administrative authority.

The right of association includes the right of workers to strike. While it is generally accepted for strikes to be restricted in the public sector and in essential services, the interruption of which would endanger the life, personal safety, or health of a significant portion of the population, these restrictions must be offset by adequate safeguards for the interests of the workers concerned (for example, mechanisms for mediation and arbitration, due process, and the right to judicial review of legal actions). Reporting on restrictions on the ability of workers to strike generally includes information on any procedures that may exist for safeguarding workers’ interests.

- B. "The right to organize and bargain collectively" includes the right of workers to be represented in negotiating the prevention and settlement of disputes with employers, the right to protection against interference, and the right to protection against acts of antiunion discrimination. Governments should promote mechanisms for voluntary negotiations between employers and workers and their organizations. Coverage of the right to organize and bargain collectively includes a review of the extent to which collective bargaining takes place and the extent to which workers, both in law and practice, are protected against antiunion discrimination.
- C. "Forced or compulsory labor" is defined as work or service exacted under the menace of penalty and for which a person has not volunteered. "Work or service" does not apply where obligations are imposed to undergo education or training. "Menace of penalty" includes loss of rights or privileges as well as penal sanctions. The ILO has exempted the following from its definition of forced labor: compulsory military service, normal civic obligations, certain forms of prison labor, emergencies, and minor communal services. Constitutional provisions concerning the obligation of citizens to work do not violate this right so long as they do not take the form of legal obligations enforced by sanctions and are consistent with the principle of "freely chosen employment."
- D. "Prohibition of child labor and minimum age for employment" concerns the effective abolition of child labor by raising the minimum age for employment to a level consistent with the fullest physical and mental development of young people. ILO Convention 182 on the "worst forms of child labor" identifies anyone under the age of 18 as a child and specifies certain types of employment as "the worst forms of child labor." These worst forms of labor include slavery, debt bondage, forced labor, forced recruitment into armed conflict, child prostitution and pornography, involvement in illicit activity such as drug production or trafficking, and "work which, by its nature, or the circumstances in which it is carried out, is likely to harm the health, safety or morals or children." In limited circumstances, ILO Convention 182 permits the employment of children between the ages of 16 and 18 in what the convention describes as an "unhealthy environment," if adequate protective measures have been taken.
- E. "Acceptable conditions of work" refers to the establishment and maintenance of mechanisms, adapted to national conditions, that provide for minimum working standards, that is: wages that provide a decent living for workers and their families; working hours that do not exceed 48 hours per week, with a full 24-hour day of rest; a specified number of annual paid leave days; and minimum conditions for the protection of the safety and health of workers.
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**APPENDIX C**  
**Selected International Human Rights Conventions**  
(See Footnotes for Treaty/Convention Titles)

COUNTRY	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
Afghanistan	P	-	-	P	-	P	P	P	-	P	P	P	P	P	P	P	P	-	-	P	P	S	P	P	-
*Albania	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Algeria	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Andorra	-	-	-	P	-	P	P	-	P	-	-	-	P	P	-	-	-	-	-	-	-	P	P	P	-
Angola	-	P	P	-	P	P	P	-	-	P	-	P	-	P	P	P	P	-	P	P	-	P	-	P	P
Antigua & Barbuda	P	P	P	P	P	P	P	-	-	1	P	P	P	-	-	P	P	-	P	P	P	P	P	P	P
Argentina	-	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Armenia	-	P	P	P	P	P	P	-	P	P	-	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Australia	P	P	P	P	P	P	P	-	-	P	P	P	P	P	P	P	P	-	-	P	P	P	P	P	P
Austria	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Azerbaijan	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P	-	P	-	-	P	P	P	P
Bahamas	P	P	P	P	P	P	P	-	-	P	P	P	P	S	S	P	P	-	P	P	P	S	P	P	P





**APPENDIX C—Continued**  
**Selected International Human Rights Conventions**  
 (See Footnotes for Treaty/Convention Titles)

COUNTRY	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
China Macau to 12-19-99	-	-	-	P	-	-	-	P	-	-	P	-	P	P	P	P	P	-	-	-	-	P	P	P	-
* China Taiwan only	P	-	-	P	-	-	-	-	-	P	P	-	P	S	S	-	-	-	-	-	-	-	-	-	-
Colombia	S	P	P	P	P	P	P	-	-	P	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Comoros	-	P	P	P	P	P	P	-	-	-	-	P	P	S	S	-	-	-	P	P	P	P	S	P	P
Congo, Democratic Re- public	-	P	P	P	P	P	P	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Congo, Republic	2	P	P	-	P	P	P	P	-	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	P
Cook Islands	-	-	-	-	-	P	P	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-
Costa Rica	-	P	P	P	P	P	P	-	-	P	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Cote D'Ivoire	2	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Croatia	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Cuba	P	P	P	P	P	P	P	P	-	P	P	P	P	S	S	-	-	-	P	P	P	P	P	P	-





**APPENDIX C—Continued**  
**Selected International Human Rights Conventions**  
(See Footnotes for Treaty/Convention Titles)

COUNTRY	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
France	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Gabon	—	P	P	P	P	P	P	—	—	P	—	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Gambia	1	P	P	P	P	P	P	—	—	—	1	P	P	P	P	P	P	—	P	P	P	P	S	P	P
Georgia	—	P	P	P	P	P	P	—	P	P	—	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Germany	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Ghana	2	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P
Greece	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Grenada	1	P	P	1	P	P	P	—	—	1	1	P	S	P	P	—	—	P	P	P	P	P	—	P	P
Guatemala	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Guinea	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—	P	P	P	P	P	P	P
Guinea-Bissau	—	P	—	—	P	P	P	—	—	—	—	P	S	S	P	P	P	—	P	P	P	P	S	P	P
Guyana	1	P	P	—	P	P	P	—	—	—	1	P	P	P	P	—	—	—	P	P	P	P	P	P	P



**APPENDIX C—Continued**  
**Selected International Human Rights Conventions**  
(See Footnotes for Treaty/Convention Titles)

COUNTRY	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
Kenya	-	P	-	-	P	P	P	-	-	-	-	P	P	P	P	P	P	-	P	P	P	P	P	P	P
* Kiribati	1	P	P	-	P	P	P	-	-	1	1	P	-	1	1	-	1	-	-	-	-	P	-	P	P
* Korea, Democratic Rep. of	-	-	-	P	-	P	P	-	-	-	-	-	-	P	P	-	-	-	-	P	-	P	-	P	-
* Korea, Republic of	-	-	-	P	-	P	P	P	-	P	-	-	P	P	P	P	P	-	P	P	P	P	P	P	P
Kuwait	P	P	P	P	P	P	P	P	-	-	P	P	P	P	P	-	-	-	P	P	P	P	P	P	P
Kyrgyzstan	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Laos	-	P	-	P	-	P	P	P	-	P	P	-	P	P	P	-	-	-	P	P	P	P	-	P	P
Latvia	2	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Lebanon	2	P	-	P	P	P	P	-	-	P	-	P	P	P	P	-	-	-	P	P	P	P	P	P	P
Lesotho	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Liberia	P	P	P	P	P	P	P	S	-	S	S	P	P	P	P	P	P	-	-	P	P	P	P	P	P
Libya	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	-	-	-	P	P	P	P	P	P	P



**APPENDIX C—Continued**  
**Selected International Human Rights Conventions**  
(See Footnotes for Treaty/Convention Titles)

COUNTRY	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
* Monaco	P	-	-	P	-	P	P	-	S	-	-	-	P	P	P	P	-	-	-	P	P	P	P	P	-
Mongolia	P	-	P	P	P	P	P	-	-	P	P	-	P	P	P	-	-	-	P	P	P	P	P	P	P
* Montenegro	P	-	-	P	-	P	P	P	-	P	P	-	P	P	P	P	P	-	-	P	P	P	P	P	-
Morocco	P	P	-	P	P	P	P	P	-	P	P	P	P	P	P	P	P	-	P	S	S	P	P	P	P
Mozambique	-	P	P	P	P	P	P	-	-	-	-	P	P	P	-	P	P	-	P	P	P	P	P	P	P
Namibia	-	P	P	P	P	P	P	-	-	-	-	P	P	P	P	P	-	-	P	P	P	P	P	P	P
* Nauru	-	-	-	-	-	P	P	-	-	-	-	-	S	S	-	-	-	-	-	P	P	-	S	P	-
Nepal	P	P	-	P	P	P	P	P	-	P	P	P	P	P	P	-	-	-	P	-	-	P	P	P	P
Netherlands	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
New Zealand	P	P	-	P	P	P	P	-	-	P	P	P	P	P	P	P	P	-	-	P	P	P	P	P	P
Nicaragua	P	P	P	P	P	P	P	-	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Niger	P	P	P	-	P	P	P	P	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P



**APPENDIX C—Continued**  
**Selected International Human Rights Conventions**  
(See Footnotes for Treaty/Convention Titles)

COUNTRY	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
Rwanda	–	P	P	P	P	P	P	–	–	–	P	P	P	P	P	P	P	–	P	P	P	P	P	P	P
* Samoa	–	P	P	–	P	P	P	–	–	–	–	P	–	P	–	P	P	–	P	P	P	P	–	P	P
San Marino	–	P	P	–	P	P	P	–	P	–	P	P	P	P	P	–	–	–	P	P	P	–	P	P	P
Sao Tome & Principe	–	P	P	–	P	P	P	–	–	–	–	P	S	S	S	P	P	–	P	P	P	S	S	P	P
Saudi Arabia	P	P	–	P	–	P	P	–	–	–	P	P	P	–	–	–	–	–	–	P	P	P	P	P	P
Senegal	2	P	P	P	P	P	P	P	–	P	P	P	P	P	P	P	P	–	P	P	P	P	P	P	P
Serbia	–	P	P	–	P	–	P	–	P	–	–	P	–	–	–	–	–	P	P	–	P	–	–	P	–
Seychelles	2	P	P	P	P	P	P	P	–	1	P	P	P	P	P	P	P	–	P	P	P	P	P	P	P
Sierra Leone	P	P	P	–	P	P	P	–	–	P	P	P	P	P	P	P	P	–	–	P	P	P	P	P	–
Singapore	–	P	–	P	P	P	P	P	–	–	P	–	–	–	–	–	–	–	P	–	–	P	–	P	P
Slovak Republic	2	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	–	P	P	P	P	P	P	P
Slovenia	–	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	–	P	P	P	P	P	P	P





**APPENDIX C—Continued**  
**Selected International Human Rights Conventions**  
(See Footnotes for Treaty/Convention Titles)

COUNTRY	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
Thailand	-	P	-	-	P	P	P	-	-	P	-	P	P	P	P	-	-	-	P	-	P	P	P	P	P
Togo	2	P	P	P	P	P	P	P	-	-	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
* Tonga	1	-	-	P	-	P	P	-	-	-	1	1	1	P	-	-	-	-	-	P	P	-	-	P	-
Trinidad & Tobago	P	P	P	-	P	P	P	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	P
Tunisia	P	P	P	P	P	P	P	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Turkey	P	P	P	P	P	P	P	-	P	P	P	P	P	P	S	S	P	-	P	-	-	P	P	P	P
Turkmenistan	P	P	P	-	P	P	P	-	-	P	P	P	P	P	P	P	P	-	-	P	P	P	P	P	-
* Tuvalu	1	-	-	-	-	P	P	-	-	1	1	-	-	1	-	P	P	-	-	-	-	P	-	P	-
Uganda	P	P	P	P	P	P	P	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
Ukraine	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P
United Arab Emirates	-	P	-	P	-	P	P	-	-	-	-	P	P	-	-	-	-	-	P	P	P	P	-	P	P
United Kingdom	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P





## APPENDIX D

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### Description of International Human Rights Conventions in Appendix C

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- A. Convention to Suppress the Slave Trade and Slavery of September 25, 1926, as amended by the Protocol of December 7, 1953.
- B. Convention Concerning Forced or Compulsory Labor of June 28, 1930 (ILO Convention 29).
- C. Convention Concerning Freedom of Association and Protection of the Right to Organize of July 9, 1948 (ILO Convention 87).
- D. Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948.
- E. Convention Concerning the Application of the Principles of the Right to Organize and Bargain Collectively of July 1, 1949 (ILO Convention 98).
- F. Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949.
- G. Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949.
- H. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of March 21, 1950.
- I. European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950.
- J. Convention on the Political Rights of Women of March 31, 1953.
- K. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of September 7, 1956.
- L. Convention Concerning the Abolition of Forced Labor of June 25, 1957 (ILO Convention 105).
- M. International Convention on the Elimination of All Forms of Racial Discrimination of December 21, 1965.
- N. International Covenant on Civil and Political Rights of December 16, 1966.
- O. International Covenant on Economic, Social and Cultural Rights of December 16, 1966.
- P. Convention Relating to the Status of Refugees of July 28, 1951.

- Q. Protocol Relating to the Status of Refugees of January 31, 1967.
  - R. American Convention on Human Rights of November 22, 1969.
  - S. Convention Concerning Minimum Age for Admission to Employment of June 26, 1973 (ILO Convention 138).
  - T. Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of June 8, 1977.
  - U. Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of June 8, 1977.
  - V. Convention on the Elimination of All Forms of Discrimination Against Women of December 18, 1979.
  - W. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984.
  - X. Convention on the Rights of the Child of November 20, 1989.
  - Y. Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor of June 17, 1999 (ILO Convention 182).
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**APPENDIX E**  
**FY 2009 Foreign Assistance Actuals, Part I**  
(\$ in thousands)

	All Accounts	DA	GHCS- USAID	GHCS- STATE	ESF	TI	AEECA	INCLE	MADR	IMET
TOTAL	33,943,409	2,000,000	2,180,000	5,159,000	7,116,901	50,000	922,000	1,876,500	631,500	93,000
AFRICA	8,242,244	876,620	848,509	3,482,165	712,910	—	—	26,600	31,498	15,339
Angola	55,967	9,690	28,550	11,052	—	—	—	—	6,300	375
Benin	30,962	7,000	23,700	—	—	—	—	—	—	262
Botswana	81,494	—	—	80,675	—	—	—	—	—	819
Burkina Faso	19,572	—	6,000	—	—	—	—	100	—	166
Burundi	39,482	6,530	12,060	—	—	—	—	—	373	403
Cameroon	7,154	—	1,500	500	—	—	—	—	—	285
Cape Verde	674	—	—	—	—	—	—	500	—	174
Central African Republic	7,493	—	—	—	2,000	—	—	—	—	62
Chad	156,886	5,000	—	—	5,000	—	—	—	—	294
Comoros	184	—	—	—	—	—	—	—	—	184
Cote d'Ivoire	113,744	—	—	107,136	—	—	—	—	—	—
Democratic Republic of the Congo	296,582	5,000	51,265	18,114	52,800	—	—	1,500	300	506
Djibouti	5,823	2,500	496	150	—	—	—	300	—	377
Ethiopia	864,846	80,000	63,200	333,687	—	—	—	—	—	634
Gabon	366	—	—	—	155	—	—	—	—	211
Ghana	147,516	59,500	38,495	11,500	32,000	—	—	500	—	721
Guinea	13,377	2,576	8,200	—	—	—	—	100	—	—
Guinea-Bissau	231	—	—	—	—	—	—	100	—	131
Kenya	829,441	49,577	45,626	530,850	63,000	—	—	—	5,500	915
Lesotho	25,698	—	6,400	19,150	—	—	—	—	—	148
Liberia	224,021	32,000	24,900	800	104,300	—	—	4,130	—	440
Madagascar	115,055	15,350	38,900	500	—	—	—	—	—	48
Malawi	115,646	20,930	50,789	24,648	—	—	—	—	—	316
Mali	102,682	51,700	33,650	1,450	4,000	—	—	—	—	306
Mauritania	5,800	500	—	—	300	—	—	—	—	—

**APPENDIX E—Continued**  
**FY 2009 Foreign Assistance Actuals, Part I**  
(\$ in thousands)

	All Accounts	DA	GHCS- USAID	GHCS- STATE	ESF	TI	AEECA	INCLE	MADR	IMET
Mauritius .....	178	—	—	—	—	—	—	—	—	178
Mozambique .....	317,975	20,820	39,423	237,304	—	—	—	—	—	376
Namibia .....	112,047	5,025	1,934	104,934	—	—	—	—	—	154
Niger .....	15,216	1,023	—	—	—	—	—	—	—	100
Nigeria .....	594,298	67,082	57,045	467,173	—	—	—	720	50	878
Republic of the Congo .....	149	—	—	—	—	—	—	—	—	149
Rwanda .....	195,872	19,480	31,750	133,922	—	—	—	—	—	425
Sao Tome and Principe .....	189	—	—	—	—	—	—	—	—	189
Senegal .....	93,754	55,834	32,043	1,535	—	—	—	—	—	987
Seychelles .....	86	—	—	—	—	—	—	—	—	86
Sierra Leone .....	20,053	—	—	500	11,000	—	—	250	—	453
Somalia .....	403,838	—	1,550	—	32,250	—	—	—	—	—
South Africa .....	544,890	9,000	11,500	523,282	—	—	—	—	—	—
State Africa Regional (AF) .....	35,392	—	—	—	8,555	—	—	—	50	1,058
Sudan .....	924,140	25,550	23,185	6,327	263,550	—	—	3,000	14,925	681
Swaziland .....	26,790	—	6,900	19,700	—	—	—	15,400	4,000	190
Tanzania .....	464,983	26,890	61,078	329,921	37,000	—	—	—	—	375
The Gambia .....	169	—	—	—	—	—	—	—	—	169
Togo .....	134	—	—	—	—	—	—	—	—	134
Uganda .....	404,152	45,950	45,282	257,550	15,000	—	—	—	—	629
Zambia .....	308,119	26,716	36,575	236,475	—	—	—	—	—	351
Zimbabwe .....	292,301	—	22,087	23,330	81,000	—	—	—	—	—
USAID Africa Regional (AFR) .....	108,475	87,914	20,311	—	250	—	—	—	—	—
USAID Central Africa Regional .....	17,500	17,500	—	—	—	—	—	—	—	—
USAID East Africa Regional .....	42,230	32,270	9,585	—	375	—	—	—	—	—
USAID Southern Africa Regional .....	17,713	15,713	2,000	—	—	—	—	—	—	—
USAID West Africa Regional .....	84,905	72,000	12,530	—	375	—	—	—	—	—





**APPENDIX E—Continued**  
**FY 2009 Foreign Assistance Actuals, Part I**  
(\$ in thousands)

	All Accounts	DA	GHCS- USAID	GHCS- STATE	ESF	TI	AEECA	INCLE	MADR	IMET
Hungary .....	2,129	—	—	—	—	—	—	—	—	1,129
Ireland .....	15,000	—	—	—	15,000	—	—	—	—	—
Kosovo .....	123,033	—	—	—	—	—	120,100	—	795	638
Latvia .....	2,482	—	—	—	—	—	—	—	—	982
Lithuania .....	2,761	—	—	—	—	—	—	—	—	1,061
Macedonia .....	23,315	—	—	—	—	—	19,000	—	895	620
Malta .....	305	—	—	—	—	—	—	—	125	80
Moldova .....	15,674	—	—	—	—	—	14,500	—	—	674
Montenegro .....	8,498	—	—	—	—	—	7,000	—	550	148
Poland .....	29,220	—	—	—	—	—	—	—	—	2,220
Portugal .....	90	—	—	—	—	—	—	—	—	90
Romania .....	13,562	—	—	—	—	—	—	—	—	1,562
Russia .....	70,146	—	4,296	5,000	—	—	60,000	—	850	—
Serbia .....	49,187	—	—	—	—	—	46,500	—	1,000	887
Slovakia .....	2,026	—	—	—	—	—	—	—	—	1,026
Slovenia .....	1,133	—	—	—	—	—	—	—	—	733
Turkey .....	15,418	—	—	—	7,500	—	—	300	3,410	3,208
Ukraine .....	99,382	—	3,191	14,178	—	—	72,400	—	800	1,813
Eurasia Regional .....	28,869	—	2,037	—	3,000	—	23,132	—	700	—
Europe Regional .....	30,081	—	—	—	2,000	—	28,081	—	—	—
NEAR EAST .....	8,047,668	34,633	3,000	—	2,261,114	—	—	214,000	118,400	16,339
Algeria .....	8,678	400	—	—	—	—	—	—	500	898
Bahrain .....	9,161	—	—	—	—	—	—	—	500	661
Egypt .....	1,814,741	—	—	—	250,000	—	—	2,000	1,425	1,316
Iraq .....	599,000	—	—	—	541,500	—	—	20,000	35,500	2,000
Israel .....	3,105,000	—	—	—	—	—	—	—	—	—
Jordan .....	1,021,806	—	—	—	513,547	—	—	1,000	19,150	3,109

Lebanon .....	240,078	—	—	—	67,500	—	—	6,000	4,600	2,278
Libya .....	3,250	—	—	—	2,500	—	—	—	750	—
Morocco .....	25,196	18,000	—	—	—	—	—	1,000	625	1,916
Oman .....	9,400	—	—	—	—	—	—	—	950	1,450
Saudi Arabia .....	361	—	—	—	—	—	—	—	350	11
Syria .....	2,500	—	—	—	2,500	—	—	—	—	—
Tunisia .....	14,600	—	—	—	800	—	—	—	100	1,700
United Arab Emirates .....	925	—	—	—	—	—	—	—	925	—
West Bank and Gaza .....	1,030,715	—	—	—	776,000	—	—	184,000	50,000	—
Yemen .....	42,357	11,233	3,000	—	19,767	—	—	—	2,125	1,000
MERC—(Middle East Regional Cooperation) and MEM (Middle East Multilaterals) .....	5,000	—	—	—	5,000	—	—	—	—	—
Middle East Partnership Initiative (MEPI) .....	50,000	—	—	—	50,000	—	—	—	—	—
Multinational Force and Observers (MFO) .....	27,000	—	—	—	—	—	—	—	—	—
Near East Regional Democracy .....	25,000	—	—	—	25,000	—	—	—	—	—
Trans-Sahara Counter-Terrorism Partnership (TSCTP)	4,900	—	—	—	4,000	—	—	—	900	—
USAID Middle East Regional (OMEPI) .....	8,000	5,000	—	—	3,000	—	—	—	—	—
SOUTH AND CENTRAL ASIA .....	5,536,690	58,941	229,178	21,214	3,238,801	—	110,133	572,050	74,690	9,399
Afghanistan .....	2,713,193	—	57,734	500	2,048,000	—	—	484,000	48,550	1,399
Bangladesh .....	166,756	40,000	41,550	6,450	50,000	—	—	200	3,600	787
India .....	103,480	11,000	69,500	—	—	—	—	—	1,700	1,364
Kazakhstan .....	22,422	—	1,064	600	—	—	13,500	—	1,900	858
Kyrgyz Republic .....	58,932	—	795	475	—	—	54,400	—	1,590	872
Maldives .....	145	—	—	—	—	—	—	—	—	145
Nepal .....	54,917	—	22,200	—	22,151	—	—	330	700	743
Pakistan .....	2,305,866	—	33,488	—	1,114,000	—	—	87,500	13,250	2,261
Sri Lanka .....	35,058	5,241	—	—	—	—	—	20	650	419
Tajikistan .....	35,765	—	1,445	524	—	—	25,233	—	1,450	282
Turkmenistan .....	8,851	—	607	75	—	—	7,000	—	750	269
Uzbekistan .....	8,555	—	815	590	—	—	7,000	—	150	—
Central Asia Regional .....	15,000	—	—	—	—	—	3,000	—	—	—
State South and Central Asia Regional (SCA) .....	5,050	—	—	12,000	4,650	—	—	—	400	—
USAID South Asia Regional .....	2,700	2,700	—	—	—	—	—	—	—	—
WESTERN HEMISPHERE .....	2,515,242	357,622	127,788	176,748	436,350	—	—	911,165	12,345	12,207
Argentina .....	1,670	—	—	—	—	—	—	305	450	915
Belize .....	487	—	—	20	—	—	—	—	—	267

**APPENDIX E—Continued**  
**FY 2009 Foreign Assistance Actuals, Part I**  
(\$ in thousands)

	All Accounts	DA	GHCS- USAID	GHCS- STATE	ESF	TI	AEECA	INCLE	MADR	IMET
Bolivia .....	85,941	42,880	16,836	—	—	—	—	26,000	—	225
Brazil .....	21,452	15,000	3,500	1,300	—	—	—	1,000	400	252
Chile .....	1,225	—	—	—	—	—	—	—	300	525
Colombia .....	540,224	—	—	—	196,500	—	—	275,128	3,150	1,400
Costa Rica .....	364	—	—	—	—	—	—	—	—	364
Cuba .....	20,000	—	—	—	20,000	—	—	—	—	—
Dominican Republic .....	51,811	24,600	10,339	11,000	1,100	—	—	3,650	—	722
Eastern Caribbean .....	1,961	—	—	—	—	—	—	500	—	661
Ecuador .....	34,689	26,585	—	—	—	—	—	7,500	—	304
El Salvador .....	59,300	21,196	5,990	20	27,000	—	—	—	—	1,594
Guatemala .....	74,167	29,000	14,050	—	—	—	—	8,320	—	254
Guyana .....	21,942	3,750	—	17,759	—	—	—	—	—	283
Haiti .....	353,314	—	18,289	116,473	134,250	—	—	17,500	—	235
Honduras .....	40,232	21,382	11,750	1,000	—	—	—	—	—	329
Jamaica .....	10,537	6,804	1,200	300	—	—	—	1,010	—	823
Mexico .....	786,779	11,200	2,900	—	15,000	—	—	454,000	3,845	834
Nicaragua .....	26,535	18,079	6,400	897	—	—	—	—	350	409
Panama .....	7,603	4,000	—	—	—	—	—	2,200	150	253
Paraguay .....	12,798	7,550	2,100	—	2,500	—	—	300	—	348
Peru .....	124,368	63,293	12,235	20	—	—	—	47,672	—	398
Suriname .....	303	—	—	—	—	—	—	—	—	153
The Bahamas .....	787	—	—	—	—	—	—	500	—	137
Trinidad and Tobago .....	495	—	—	—	—	—	—	400	—	95
Uruguay .....	427	—	—	—	—	—	—	—	—	427
Venezuela .....	5,500	—	—	—	5,000	—	—	500	—	—
State Western Hemisphere Regional (WHA) .....	117,870	—	—	—	35,000	—	—	64,680	—	—
USAID Caribbean Regional .....	29,659	5,709	5,750	18,200	—	—	—	—	3,700	—



**APPENDIX E—Continued**  
**FY 2009 Foreign Assistance Actuals, Part I**  
(\$ in thousands)

All Accounts	DA	GHCS- USAID	GHCS- STATE	ESF	TI	AEECA	INCLE	MADR	IMET
Assistance to Developing Countries Affected by the Global Financial Crisis .....				33,045					
GH—GLOBAL HEALTH .....	33,045	—	—						
Global Health—Core .....	304,614	304,614	—						
Global Health—Core .....	304,614	304,614	—						
GH—International Partnerships .....	523,045	523,045	—						
GH/IP—Avian Influenza .....	190,000	190,000	—						
GH/IP—Blind Children .....	2,000	2,000	—						
GH/IP—Commodity Fund .....	20,335	20,335	—						
GH/IP—Global Alliance for Vaccine Immunization (GAVI) .....	75,000	75,000	—						
GH/IP—Global Fund for AIDS, TB, and Malaria .....	100,000	100,000	—						
GH/IP—International AIDS Vaccine Initiative (IAVI) .....	28,710	28,710	—						
GH/IP—Iodine Deficiency Disorder (IDD) .....	2,000	2,000	—						
GH/IP—Microbicides .....	45,000	45,000	—						
GH/IP—Neglected Tropical Diseases (NTD) .....	25,000	25,000	—						
GH/IP—TB Drug Facility .....	15,000	15,000	—						
GH/IP—UNFPA UN Population Fund .....	20,000	20,000	—						
INL—INTERNATIONAL NARCOTICS AND LAW ENFORCE- MENT AFFAIRS .....	134,015	—	—				134,015		
INL—Anti-Crime Programs .....	14,441	—	—				14,441		
INL—Civilian Policing .....	5,400	—	—				5,400		
INL—Criminal Youth Gangs .....	5,000	—	—				5,000		
INL—Demand Reduction .....	10,000	—	—				10,000		
INL—GPOI, Global Peacekeeping Operations Initiative .....	3,000	—	—				3,000		
INL—ILEA, International Law Enforcement Academy .....	17,000	—	—				17,000		
INL—Inter-regional Aviation Support .....	52,420	—	—				52,420		
INL—International Organizations .....	4,900	—	—				4,900		







PRM, Humanitarian Migrants to Israel .....	30,000								
PRM, OA—Africa .....	337,879								
PRM, OA—East Asia .....	37,400								
PRM, OA—Europe .....	54,528								
PRM, OA—Migration .....	15,880								
PRM, OA—Near East .....	585,940								
PRM, OA—Protection Priorities .....	97,983								
PRM, OA—South Asia .....	161,670								
PRM, OA—Western Hemisphere .....	47,470								
PRM, Refugee Admissions .....	282,750								
RESERVE .....	61,561	36,561			25,000				
Unallocated Earmarks .....	61,561	36,561			25,000				
S/CT—OFFICE OF THE COORDINATOR FOR COUNTER- TERRORISM .....	48,400								48,400
S/CT—RSI, Regional Strategic Initiative .....	5,000								5,000
State Coordinator for Counterterrorism (CT) .....	43,400								43,400
S/GAC—Office of the Global AIDS Coordinator .....	1,360,249				1,360,249				
S/GAC, International Partnerships .....	640,000				640,000				
S/GAC, Oversight/Management .....	168,638				168,638				
S/GAC, Technical Support/Strategic Information/Eval- uation .....	551,611				551,611				
USAID MANAGEMENT .....	1,227,959								
Civilian Stabilization Initiative .....	30,000								
USAID Capital Investment Fund .....	84,275								
USAID Development Credit Authority Admin .....	8,000								
USAID Inspector General Operating Expense .....	46,500								
USAID Operating Expense .....	1,059,184								
USAID PROGRAM MANAGEMENT INITIATIVES .....	12,687	12,687							
USAID Program Management Initiatives .....	12,687	12,687							

NOTE: The FY 2009 Actual includes bridge funding from the Supplemental Appropriations Act, 2008 (PL 110-252), funding from the Omnibus Appropriations Act, 2009 (PL 111-8), and the Supplemental Ap-  
propriations Act, 2009 (111-32) The FY 2009 Actual includes \$18 billion in supplemental funding that forward funded portions of the FY 2010 President's Request























**APPENDIX E—Continued**  
**FY 2009 Foreign Assistance Actuals, Part II**  
 (\$ in thousands)

	FMF	PKO	ERMA	IO&P	MRA	PL 480	IDA	DF	AID Admin	PCCF
S/CT—OFFICE OF THE COORDINATOR FOR COUNTERTERRORISM .....	—	—	—	—	—	—	—	—	—	—
S/CT—RSI, Regional Strategic Initiative .....	—	—	—	—	—	—	—	—	—	—
State Coordinator for Counterterrorism (CT) .....	—	—	—	—	—	—	—	—	—	—
S/GAC—OFFICE OF THE GLOBAL AIDS COORDINATOR .....	—	—	—	—	—	—	—	—	—	—
S/GAC, International Partnerships .....	—	—	—	—	—	—	—	—	—	—
S/GAC, Oversight/Management .....	—	—	—	—	—	—	—	—	—	—
S/GAC, Technical Support//Strategic Information/Evaluation .....	—	—	—	—	—	—	—	—	—	—
USAID MANAGEMENT .....	—	—	—	—	—	—	—	—	1,227,959	—
Civilian Stabilization Initiative .....	—	—	—	—	—	—	—	—	30,000	—
USAID Capital Investment Fund .....	—	—	—	—	—	—	—	—	84,275	—
USAID Development Credit Authority Admin .....	—	—	—	—	—	—	—	—	8,000	—
USAID Inspector General Operating Expense .....	—	—	—	—	—	—	—	—	46,500	—
USAID Operating Expense .....	—	—	—	—	—	—	—	—	1,059,184	—
USAID PROGRAM MANAGEMENT INITIATIVES .....	—	—	—	—	—	—	—	—	—	—
USAID Program Management Initiatives .....	—	—	—	—	—	—	—	—	—	—

NOTE: The FY 2009 Actual includes bridge funding from the Supplemental Appropriations Act, 2008 (PL 110-252), funding from the Omnibus Appropriations Act, 2009 (PL 111-8), and the Supplemental Appropriations Act, 2009 (111-32). The FY 2009 Actual includes \$18 billion in supplemental funding that forward funded portions of the FY 2010 President's Request.







**APPENDIX F—Continued**  
**UN General Assembly's Third Committee Country Resolution Votes 2009**

Country	Belarus '06	Belarus 7	Burma '06	Burma 7	Burma '08	DPRK '05	DPRK '06	DPRK 7	DPRK '08	Iran '05	Iran '06	Iran 7	Iran '08	Burma '09	DPRK '09	Iran '09
Egypt	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
El Salvador	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Equatorial Guinea		A		A	A	A		A	A	Y		A	A	Yy	Y	
Eritrea	A	A	A	A	A	A	A	Y	Y	A	A	A	N	A	Y	N
Estonia	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Ethiopia	N	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Fiji	Y	Y	A	A	A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Finland	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
France	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Gabon																
Gambia		N			A	N			A	A		N	N	A	A	A
Georgia	Y	Y		Y	Y	Y	Y	Y	Y		A	A	A	Y	Y	A
Germany	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Ghana	A	A	A	Y	A	A	Y	Y	Y	A	A	A	A		Y	A
Greece	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Grenada				A				A				A	A	A	A	A









**APPENDIX F—Continued**  
**UN General Assembly's Third Committee Country Resolution Votes 2009**

Country	Belarus '06	Belarus 7	Burma '06	Burma 7	Burma '08	DPRK '05	DPRK '06	DPRK 7	DPRK '08	Iran '05	Iran '06	Iran 7	Iran '08	Burma '09	DPRK '09	Iran '09
Oman		N		N	N			N	N	N	N	N	N	A	A	A
Pakistan	N	N	N	N	A	A	A	N	A	N	N	N	N	A	A	N
Palau	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Panama	A	A	Y	Y	Y	Y	Y	Y	Y	A	A	Y	Y	A	Y	Y
Papua New Guinea	A	A	A	A	A	Y	Y	Y	Y	Y	A	A	A	Y	Y	Y
Paraguay	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	Y	Y	Y
Peru	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	A	A
Philippines	A	A	A	A	A	A	Y	Y	A	A	A	A	A	Y	Y	Y
Poland	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Portugal	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Qatar	N	N	A	A	A	A	A	A	A	N	N	N	N	Y	Y	A
Rep. of Korea	Y	Y	Y	Y	Y	A	Y	A	Y	A	A	A	A	Y	Y	Y
Romania	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Russian Federation	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Rwanda	A		A	A	A		A	A	A	A	A	A	A	A	A	A
St. Kitts-Nevis		A		A	A	A		A	A			Y	A	A	A	A



**APPENDIX F—Continued**  
**UN General Assembly's Third Committee Country Resolution Votes 2009**

Country	Belarus '06	Belarus 7	Burma '06	Burma 7	Burma '08	DPRK '05	DPRK '06	DPRK 7	DPRK '08	Iran '05	Iran '06	Iran 7	Iran '08	Burma '09	DPRK '09	Iran '09
Swaziland	A	A	A	A	A	N	A	A	A	N	A	A	A	A	A	A
Sweden	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Switzerland	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Syrian AR	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N
Tajikistan	N	N		A		N	N	N		N	N	N	N	A	A	N
Thailand	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
The FYR Macedonia	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Timor-Leste	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	A	Y	Y
Togo	A	A	A	A	Y	A	N	N	Y	N	N	N	N	Y	Y	A
Tonga	Y	Y	Y		Y		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Trinidad-Tobago	A	A	A	A	A	A		A	A	A		A	A	A	A	A
Tunisia						A				N	N	N	N			N
Turkey	Y	Y	Y	Y	Y	Y	Y	Y	Y					Y	Y	
Turkmenistan	A	N	A	A	A	N	A	A	A	N	A	N	N	A	A	N
Tuvalu	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N
Uganda	A	N	A	N	A	A	A	N	A	A	A	N	A	A	A	N







## APPENDIX G

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### Universal Declaration of Human Rights

---

#### PREAMBLE

*Whereas* recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

*Whereas* disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

*Whereas* it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

*Whereas* it is essential to promote the development of friendly relations between nations,

*Whereas* the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

*Whereas* Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

*Whereas* a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

*Now, therefore*, The General Assembly, proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

#### *Article 1*

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

#### *Article 2*

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

*Article 3*

Everyone has the right to life, liberty and the security of person.

*Article 4*

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

*Article 5*

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

*Article 6*

Everyone has the right to recognition everywhere as a person before the law.

*Article 7*

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

*Article 8*

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

*Article 9*

No one shall be subjected to arbitrary arrest, detention or exile.

*Article 10*

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

*Article 11*

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty without any limitation due to race, of any penal offence on account of nationality or religion, have the any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed.

*Article 12*

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

*Article 13*

1. Everyone has the right to freedom of movement and residence within the borders of each state.

2. Everyone has the right to leave any country, including his own, and to return to his country.

*Article 14*

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

*Article 15*

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor be denied the right to change his nationality.

*Article 16*

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

*Article 17*

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

*Article 18*

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

*Article 19*

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

*Article 20*

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

*Article 21*

1. Everyone has the right to take part in the Government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

*Article 22*

1. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and

cultural rights indispensable for his dignity and the free development of his personality.

#### *Article 23*

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

#### *Article 24*

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

#### *Article 25*

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

#### *Article 26*

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

#### *Article 27*

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

#### *Article 28*

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

#### *Article 29*

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just

requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

*Article 30*

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

*Hundred and eighty-third plenary meeting  
Resolution 217(A)(III) of the United Nations General Assembly,  
December 10, 1948*

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