

SOUTH ASIA

AFGHANISTAN

Afghanistan is an Islamic republic with a population of approximately 30 million. In October 2004 Hamid Karzai was elected president in the country's first presidential election under its new constitution, ratified in January 2004. On September 18, the country held its first parliamentary elections in over two decades. While neither the presidential nor the parliamentary elections fully met international standards for free and fair elections, citizens found the parliamentary elections to be credible, and the presidential elections acceptable. While civilian authorities generally maintained effective control of the security forces, there were frequent instances in which elements of the security forces acted independently of government authority.

Afghanistan's human rights record remained poor due to weak central institutions, a deadly insurgency, and the country's ongoing recovery from two decades of war. While the government struggled to expand its authority over provincial centers, a few areas remained under the control of regional commanders. There continued to be instances in which security and factional forces committed extrajudicial killings and torture. Extensive reporting of human rights abuses led to increased action against abusers. The following human rights problems were reported:

- extrajudicial killings
- torture
- poor prison conditions
- official impunity
- prolonged pretrial detention
- abuse of authority by regional commanders
- restrictions on freedoms of press, religion, movement, and association
- violence and societal discrimination against women and minorities
- trafficking in persons
- abuse of worker rights
- child labor

Terrorist attacks, armed insurgency, and violence continued during the year. Taliban and other antigovernment forces threatened, robbed, attacked, and occasionally killed local villagers, political opponents, and nongovernmental organization (NGO) workers. Increased Taliban, al-Qa'ida, and other antigovernment activity, particularly in the south and southeast, compounded security challenges faced by the government. UN agencies and NGOs temporarily cancelled or curtailed their activities at various times during the 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 reports of politically motivated or extrajudicial killings by the government or its agents. For example, in the spring, Kabul's police chief allegedly tortured and killed a civilian, but it was unknown whether there was an investigation. In December police beat and killed a detainee at the Kabul police station. The lack of an effective police force, poor infrastructure and communications, instability, and insecurity hampered investigations of unlawful killings, bombings, or civilian deaths, and there were no reliable estimates of the numbers involved.

There were no updates to the January 2004 hanging of four alleged bandits in Farah, the March and April 2004 killings of four detainees in Herat, or the August 2004 investigation of the 17 bodies found at the Shindand market place.

The United Nations Mine Action Center for Afghanistan (UNMACA) reported that landmines killed 132 and wounded 647 persons in the first 11 months of the year (see section 1.g.).

Terrorists and insurgents, including Taliban, al-Qa'ida, and Hizb-e-Islami Gulbuddin, killed numerous civilians during their attacks. There were reports that the Taliban and its allies summarily executed NGO workers and other persons. Attacks on international organizations, international aid workers and their local counterparts, and foreign interests and nationals increased significantly during the year and prompted some organizations to leave (see sections 1.g. and 4).

Antigovernment forces attempted to disrupt the election process across the country, targeting candidates, election workers, and voters. In September, in Balkh, unknown assailants shot and killed Mohammad Ramazan, a candidate for parliament who was leading in the preliminary vote count, and a bodyguard. Also in September unknown assailants abducted candidate Abdul Hadi from his home in Helmand Province and killed him. The Taliban claimed responsibility for both incidents (see section 3). Religious figures also faced threats and violence. In October and November five progovernment mullahs were killed for speaking publicly against the Taliban and al-Qa'ida (see section 2.c.).

In September unknown assailants shot and killed a popular Afghan singer along with six other musicians in Jowzjan. The incident was believed to be an attack against the performance of music, as no money, equipment, or cell phones were taken.

On April 29, residents of a village in Badakhshan Province killed Amena, a 29-year-old woman, for allegedly committing adultery. She was stoned to death without having been detained. Authorities subsequently charged and imprisoned Amena's mother, brother, and 13 other villagers on murder charges for taking part in the stoning after the sentence had been decreed by the village religious leader and local commander, who were also taken into custody but later released.

b. Disappearance.—Abductions and disappearances occurred during the year. There continued to be reports of abduction by Taliban, allied militias, and unknown assailants. In April members of the Taliban abducted and killed a British contractor. In May alleged members of a criminal gang abducted Italian aid worker Clementina Cantoni and released her 24 days later. Authorities sentenced 1 of the kidnapers to 20 years imprisonment for Cantoni's kidnapping and sentenced 2 others to death for the kidnapping and an unrelated killing (see section 1.g.).

There were no updates in the January 2004 abduction of an NGO driver, the 2003 abduction of a commander in Herat, or the abduction of many women and girls taken by the Taliban from 1998 to 2001.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices; however, there were reports of abuses. For example, credible observers reported that local authorities in Herat, Helmand, and other locations routinely tortured and abused detainees. Torture and abuse consisted of pulling out fingernails and toenails, burning with hot oil, sexual humiliation and sodomy.

In Kabul, prisoner Abdul Rahman alleged that local authorities beat him with rubber hoses and wood batons during his four-month-detention.

According to the UN, police in the northern district of Faryab reported that a commander and former district governor severely beat a group of teachers and detained them in his private jail during the year.

NGOs reported that security forces used excessive force during their fight against Taliban and al-Qa'ida remnants, including looting, beating, and torturing civilians. Violence and instability hampered relief and reconstruction efforts in different parts of the country and led to numerous human rights abuses.

On September 23, Human Rights Watch (HRW) reported that security forces arbitrarily detained civilians and committed cruel, inhumane, and degrading acts. This claim was based on reports HRW received from family members of detained civilians and interviews conducted with released detainees.

In March *Harper's Magazine* reported that in May 2004 a 21-year-old citizen was taken to jail in Gardez, masked with a bag, and had his hands tied. Authorities poured cold water over him and punched and beat him with sticks. The man claimed that he was threatened with an attack by dogs, subsequently bitten and scratched by dogs, and denied food. The man alleged that he was held for seven or eight nights in Gardez before being taken to another facility and tortured nightly for at least eight days, before being transferred to another facility.

Prison and Detention Center Conditions.—Prison conditions remained poor, and prisons were severely overcrowded and unsanitary. Prisoners shared collective cells and were not sheltered adequately from severe winter conditions. Living conditions

did not meet international standards, and conditions in women's facilities were worse than in men's facilities. Some prisons held more than twice their capacity. In district prisons, shipping containers were frequently used when other structures were unavailable. Prisoners were reportedly beaten, tortured, and denied adequate food. On October 10, the Afghanistan Independent Human Rights Commission (AIHRC) reported that inadequate food, poor sanitation facilities, insufficient blankets, and infectious diseases were common in the country's prisons.

There were continued reports of private and illegal prisons. The AIHRC claimed that the country's intelligence agency ran at least two such prisons, and there were allegations that private detention facilities existed around Kabul and in northern regions of the country. The AIHRC claimed it closed 36 such detention centers over the past 3½ years. During the year AIHRC allegedly discovered private prisons in Faryab and Mazar-e-Sharif. HRW and other organizations reported the presence of secret or unofficial prisons in 2004.

According to the AIHRC, six prisoners died from natural causes while incarcerated during the year.

More than 6 thousand convicts, including approximately 219 women, were held in 34 government-run prisons in 8 provinces across the country. The government reported 31 active rehabilitation centers for juveniles. Approximately 14 detention centers housed female prisoners. Children under 12 years of age were incarcerated with their mothers. Not all juveniles (under 18 years) were detained in juvenile correctional facilities. For example, in Pul-e-Charkhi Prison, many juveniles were detained with adult prisoners. In general, juveniles charged with murder were detained in adult facilities; however, if space permitted, they were assigned to a separate area within the facility. Prisoners waiting for trial generally were separated from the rest of the inmate population.

The International Committee for the Red Cross (ICRC) had permission to visit all prisons under government control, and the ICRC conducted such visits during the year; however, the ICRC lacked full access to some prisoners. The AIHRC monitored prison conditions regularly during the year, independent of the Ministry of Justice; however, the AIHRC reported that in some areas, their representatives were not granted full access or were required to provide additional proof of authorization. The ICRC did not have access to secret or unofficial prisons.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest or detention; however, both remained serious problems. Justice was administered on an intermittent basis according to a mixture of codified law, Shari'a (Islamic law), and local custom.

Role of the Police and Security Apparatus.—The Afghan National Police (ANP), under the Ministry of Interior, has primary responsibility for internal order; however, some local and regional commanders maintained considerable power since the government did not control security nationwide. The UN extended the North Atlantic Treaty Organization's (NATO) mandate through October 13, and NATO retained command of the International Security Assistance Force (ISAF) in Kabul. NATO reviewed and renewed its mandate annually. Human rights groups and detainees reported that local police extorted bribes from civilians in exchange for their release from prison or to avoid arrest.

Corruption and official impunity remained pervasive problems. The international community worked with the government to develop training programs and internal investigation mechanisms to curb security force corruption and abuses. In November the government created a Professional Standards Unit (or Internal Affairs Unit) to help investigate offenses. The government, with foreign assistance, was developing a model police station in Kabul to exemplify best practices and train police. The AIHRC provided human rights training to members of the ANP.

Arrest and Detention.—Judicial and police procedures and practices for taking persons into custody and bringing them to justice followed no established code and varied depending on the area and local authorities. Some areas had a more formal judicial structure than others. The authorities did not respect limits on lengths of pretrial detention. The law provides for access to legal counsel, the use of warrants, and bail; however, all three were inconsistently applied. There were no confirmed reports of political detainees.

Arbitrarily lengthy pretrial detention remained a problem. The United Nations Human Rights Commission (UNHRC) reported that arbitrary and prolonged detentions were a frequent occurrence throughout the country. The AIHRC received several hundred reports of lengthy pretrial detention during the year. According to the law, police can detain suspects for up to 72 hours; primary and secondary courts can detain for up to 2 months; and the final court can detain for up to 5 months. The country's law limited pretrial detention to 9 months; however, there were docu-

mented cases where suspects were held for longer periods. For example NGOs reported that prison authorities detained individuals for over a year without charging them. There were credible reports that police continued to detain prisoners in Kabul and Ghazni after they were found innocent.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, but in practice the judiciary was inefficient and subject to influence and corruption. The government, in accordance with Islamic principle and international standards and with assistance from the international community, continued to work on reestablishing a functioning nationwide judicial system. The courts, however, were hindered by a lack of qualified judicial personnel, and judges often based their judgments on their personal understanding of Islamic law and tribal codes of honor. Pressure from public officials and the families of accused persons also threatened judicial impartiality. Trials were usually public, and while juries were not used, decisions made through the shura system were made collectively by groups of local elders. Defendants have the right to be present and to consult with an attorney when resources allow. Defendants have the right of appeal.

Many municipal and provincial authorities relied on some interpretation of Islamic law and traditional tribal codes of justice.

In cities, courts decided criminal and civil cases. The Supreme Court was located in Kabul. A National Security Court tried terrorist and other cases, although it was unclear how it functioned. In December the president passed by decree an antinarcotics law that formally created a separate central court for narcotics prosecutions.

In rural areas local elders and shuras (community councils) were the primary means of settling criminal matters and civil disputes; they sometimes allegedly also levied unsanctioned punishments.

The Ministry of Justice focused on judicial reform, but numerous problems remained. The judicial system lacked the capacity to handle the large volume of new and amended legislation.

Trial Procedures.—Court procedures did not meet internationally accepted standards for fair trials. The administration and implementation of justice varied in different areas of the country. Defendants have the right to an attorney under the law, but this right was inconsistently applied. Citizens' lack of awareness of their constitutional rights was a problem, and there was no functioning public defender system. Juries were not used, and defendants were not allowed to confront or question witnesses. Court decisions could be appealed. The courts reportedly heard cases in sessions that lasted only a few minutes. In cases involving murder and rape, judges generally sentenced convicted prisoners to execution, although relatives of the victim could instead choose to accept other restitution or could enforce the verdict themselves. Under the new constitution, capital punishment is conditional upon approval of the president. Local elders and shuras sentenced persons to unsanctioned punishment including flogging or death by stoning, as well as ordering, in murder cases, the defendant to provide young girls in marriage to the victims' family. In such proceedings, the accused typically had no right to legal representation, bail, or appeal. The government enforced Shari'a, which discriminated against women (see section 5, Women). Approximately 80 percent of all disputes went to shuras for decisions.

Political Prisoners.—There were no confirmed reports of political detainees; however, there were reports that a number of regional commanders affiliated with the government held political prisoners. There were no reliable estimates of the numbers involved. Political prisoners were reportedly not given the same protection as other detainees.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such interference; however, there were no legal protections for victims, and police officials forcibly invaded and looted the homes and businesses of civilians with impunity. In April local police invaded the homes of several NGO personnel and international businessmen, harassed and threatened them, and stole their valuables. In April 2004 troops from the Junbesh and Jamiat parties' military wings looted houses during fighting east of Mazar-e-Sharif.

Forced resettlement for safety reasons occurred during the year.

The law provided for wiretapping.

Police often detained women at the request of family members for defying the family's wishes on the choice of a spouse, or for other "moral" offenses. An unknown number of women were imprisoned for these reasons. Some women were in detention centers because they were runaways (see section 5, Women).

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—During the year continued internal conflict and the use of excessive force caused the deaths of civilians, property damage, and the displacement of residents.

Interfactional fighting between regional commanders, persistent Taliban and al-Qa'ida activity, and criminal activity resulted in unlawful killings. Militants targeted and killed foreigners and local NGO employees.

In November in Nimroz Province, militants abducted and killed Ramankutty Maniappan (see section 1.b.).

On August 14, in Kandahar, a woman was killed in an explosion at a women's market.

The Taliban beheaded several individuals throughout the year in Helmand and Ghazni provinces for allegedly spying for a foreign country. In November the Taliban kidnapped and killed a road worker in Nimroz Province in an apparent attempt to pressure aid groups to leave. After initially accepting responsibility, the Taliban later denied involvement.

On September 28, citizens from Sharan district in Paktika Province found bodies of 500 hundred police and soldiers in a mass grave. Members of the Taliban and al-Qa'ida allegedly killed the soldiers and police in 1998.

During the year antigovernment elements attacked progovernment religious leaders (see section 2.c).

On May 16, unknown assailants kidnapped and held captive a foreign aid worker for 24 days. On June 28, she was released unharmed in Kabul. The case was under investigation and remained open at year's end.

In December 2004 unknown assailants kidnapped three Turkish construction workers. The kidnappers killed one worker and released two others. The case remained open at year's end.

In July 2004 in Uruzgan province, alleged members of the Taliban beheaded 15 men, 13 of whom belonged to the Hazara tribe, a historical enemy of the Taliban.

During the year battles between rival tribes and local commanders resulted in numerous civilian casualties. In May, fighting between supporters of two rival warlords killed one citizen and wounded five others.

Militants also targeted civilians and election officials in a campaign to derail national elections (see section 3).

Violence and instability hampered relief and reconstruction efforts in different parts of the country. There were reports by NGOs that some local commanders charged them for the relief supplies they were bringing into the country. The delivery of assistance was also limited by the difficulties in moving relief goods overland to remote areas.

Estimates of the remaining number of landmines planted during and after the Soviet occupation ranged from 450 thousand, according to the Halo Trust, to 7 million, according to the UN. The most heavily mined areas were the provinces bordering Iran and Pakistan. The landmines and unexploded ordnance caused deaths and injuries, restricted areas available for cultivation, and impeded the return of refugees to mine-affected regions. During the year the UNMACA recorded 779 people killed or injured by mines.

With funding from international donors, the UN organized and trained mine detection and clearance teams, which operated throughout the country. More than 1.5 million refugees and internally displaced persons (IDPs) returned to areas cleared of mines and unexploded ordnance. UN agencies and NGOs conducted many educational programs and mine awareness campaigns for women and children in various parts of the country.

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, there were instances of governmental intimidation of journalists to influence their reporting. The law prohibits information that "could mean insult to the sacred religion of Islam and other religions." The ambiguity over what was considered offensive material offered the potential for restricted press freedom.

The independent media were active and publicly reflected differing political views, although the extent varied from region to region. The government owned at least 35 publications and most of the electronic news media. Many other newspapers were published only sporadically, and many were affiliated with different provincial authorities. Factional authorities tightly controlled media in some parts of the country, and the degree of freedom of expression varied significantly between regions. The foreign media were covered under the freedom of speech law; however, they were prohibited from commenting negatively on Islam and from publishing materials that were considered a threat to the president.

During the year, members of the intelligence service intimidated and threatened journalists. Threatening calls and messages against media organizations also were common. For example in mid-January, an Iranian radio station reported that the Herat government banned a weekly newspaper, *Payam-e-Hambastagi*, allegedly for supporting Ismail Khan, the former governor of Herat. Radio Bamyan, an independent radio station, received occasional threats because the station provided programming deemed un-Islamic.

While some independent journalists and writers published magazines and newsletters, circulation largely was confined to Kabul, and many publications were self-censored. According to the NGO Reporters Without Borders, many persons listened to the dozen international stations that broadcast in Dari or Pashto. The BBC, Voice of America, Radio Liberty, and Radio Free Afghanistan were available throughout the country. There were approximately 300 print publications, 40 radio stations, and several television stations in the country. In September 2004 business leaders inaugurated the first independent radio station established entirely by private sector funds in Ghazni province. At least 32 other community-based independent radio stations had been created.

Authorities subjected journalists to harassment, intimidation, and violence during the year. In June the Media Commission prosecuted Massood Qiam, a Tolo TV journalist, for defaming the country's chief justice. The charges were later dropped at the request of the minister of information and culture. In September authorities beat two *Sada-e-Afghan* reporters and detained them for eight hours for allegedly taking illegal pictures and not having an invitation to the event they were attending. No actions were taken against the members of the president's security force. On December 21, authorities released journalist Ali Mohaqiq Nasab from jail with a suspended six-month sentence. On October 1, police arrested Nasab and on October 22, convicted him for publishing un-Islamic materials, specifically for describing the harsh punishments imposed on individuals accused of adultery and theft, as well as the right of Muslims to convert to other religions (see section 2.c.). In June 2004 authorities in Herat interfered in the functioning of an independent women's community radio station, Radio Sahar. Authorities resolved the situation through negotiation and dialogue, according to *Internews*. In August 2004 the Ministry of Information and Culture announced the creation of a commission of religious clergy to monitor the media, but the commission's authority to censor content was not clear.

Other nongovernmental actors also interfered in the operation of journalists. In September unknown assailants kidnapped two reporters accompanying a female candidate for the parliament in Nuristan province, but they managed to escape after a six-day detention.

Authorities restricted academic freedom. In May Herat University expelled two students and had them arrested following a classroom discussion in which they debated the role of Christianity in Muslim society. The students were detained for more than three months until the AIHRC intervened and had both released and reinstated at the university. However, police did not drop charges against both students, and at year's end the case remained ongoing.

Unlike in previous years there were no reports that government forces prohibited music, movies, and television on religious grounds. Journalistic self-censorship was common in many areas because of fear of retaliation. Cable operators provided a wide variety of channels, including Western movie and music channels. The government did not restrict the ownership of satellite dishes by private citizens.

There were no government restrictions on the Internet.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association; however, this right was restricted in practice.

Freedom of Assembly.—A lack of physical security and interference from local authorities inhibited freedom of assembly in areas outside Kabul.

In May, according to HRW, security forces killed 16 protesters while trying to disband violent demonstrations in several cities in response to a *Newsweek* magazine article discussing Koran desecration.

Freedom of Association.—The Political Parties Law obliges parties to register with the Ministry of Justice and requires political parties to pursue objectives that are consistent with the principles of Islam. Political parties based on ethnicity, language, Islamic school of thought, and region were not allowed; however, political parties generally were able to conduct activities throughout the country without opposition or hindrance, except in regions where antigovernment violence affected overall security (see section 3). At year's end there were 91 registered political parties.

In 2004 in Herat Province, party activists could not conduct political activities openly because of then governor Ismail Khan's intolerance of political activities. Khan later became minister of water and energy, but it was unclear if conditions in Herat had changed.

c. Freedom of Religion.—The law proclaims that Islam is the “religion of the state,” but provides non-Muslim citizens the freedom to perform their rituals within the limits determined by laws for public decency and peace, although there was harassment of foreign missionaries and others. The law also declares that no law can be contrary to the beliefs and provisions of Islam. The government required all citizens to profess a religious affiliation.

Historically, the majority Sunni population discriminated against the minority Shi'a community. There were no laws forbidding proselytizing, although authorities viewed proselytizing as contrary to the beliefs of Islam, and authorities could punish blasphemy and apostasy with death.

Public school curricula included religious subjects, and religious leaders conducted detailed religious study. Non-Muslims were not required to study Islam, and there was no restriction on parental religious teaching.

The Shi'a religious affiliation of the Hazaras historically was a significant factor contributing to their repression, and there was continued social discrimination against Hazaras (see section 5).

There were no known foreign missionaries or other non-Islamic religiously oriented organizations in the country. Conversion from Islam is punishable by death.

During the year antigovernment elements increased attacks against progovernment religious leaders. For example, on July 3, in Kandahar city, armed men killed Mulawi Mohammad Nabi Misbah, an affiliate of the Kandahar cleric council and a member of the provincial election commission. On July 13, in Lashkargah city, assailants killed Mawlawi Saleh Mohammad, head of a religious shura in Helmand Province and a well-known supporter of the electoral process. On August 3, in Helmand Province, antigovernment forces killed Mullah Zarif, who had signed a fatwa against former Taliban leader Mullah Omar.

Societal Abuses and Discrimination.—Sikhs and Hindus returning to the country faced difficulties in obtaining housing and land in Kabul and other provinces, and the communities reportedly continued to face acts of discrimination during the year. In the second half of the year, the government provided Sikhs and Hindus land on which to cremate their dead.

Non-Muslims faced discrimination in schools. The AIHRC received numerous reports that students belonging to the Sikh and Hindu faiths stopped attending schools due to harassment from both teachers and students, and the government had not implemented measures to protect these children.

There were no known incidents of anti-Semitism.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, certain laws limited citizens' movement. The passport law requires a woman to obtain permission from a male family member before having a passport application processed. In some areas of the country, women were forbidden by local custom or tradition to leave the home except in the company of a male relative. The law also prohibits women from traveling alone outside the country without a male relative, and male relatives must accompany women participating in the hajj. Additionally, sporadic fighting, banditry, and landmines hampered travel within the country.

Taxi, truck, and bus drivers complained that security forces and armed militants operated illegal checkpoints and extorted money and goods. While the number of such checkpoints decreased during daylight hours, their numbers increased at night, especially in the border provinces. In April local militants shot and injured two men at illegal checkpoints in Kunduz province.

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

Internally Displaced Persons (IDPs).—Approximately 150 thousand persons were internally displaced. During the year the UN High Commissioner for Refugees assisted the return of over 519 thousand refugees to the country; an additional 237 thousand returned spontaneously without assistance. A modest number of IDPs were also resettled.

Protection of Refugees.—The government has not established a system for providing protection for refugees or those seeking asylum.

Since 2002 over 4.4 million citizens have returned to the country. Women and children constituted 75 percent of the refugee population. In August, September, and October, refugees returned in large numbers to the country, as 95 percent of

the refugee camps in Pakistan closed. A fifth of these people were living without shelter at year's end. Sporadic fighting and related security concerns, as well as drought, discouraged some refugees from returning to the country.

Ethnic Hazaras prevented some Kuchi nomads from returning to traditional grazing lands in the central highlands, in part because of allegations that the Kuchis were pro-Taliban and thus complicit in the massacres perpetrated against Hazaras in the 1990s. Hazaras also found difficulty in returning to the country. In December 2004 a local leader from Karukh district in Herat blocked the return of approximately 200 Hazara refugees from Iran.

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 for the first time in over 20 years on September 18, when they participated in parliamentary elections.

Elections and Political Parties.—In October 2004 citizens chose Hamid Karzai to be the first democratically elected president in an election that was acceptable to the majority of the country's citizens. On September 18, citizens elected 249 members of the Wolesi Jirga, the lower house of the National Assembly, in an election deemed credible by the majority of citizens. Members of the Meshrano Jirga, the upper house, were selected through presidential and provincial council nomination. There were 249 men and 68 women in the Wolesi Jirga and 102 men and 22 women in the Meshrano Jirga. Since the parliament was inaugurated on December 19, members of parliament worked together cooperatively. There is no established tradition of political parties, but political groups were being formed in the National Assembly.

AIHRC and the UN Assistance Mission in Afghanistan (UNAMA) reported that local officials tried to influence the outcome of elections. From April 19 through September 13, citizens reported more than 390 such attempts to the AIHRC/UNAMA joint verification team. For example, the Herat Provincial administration dismissed Mohammad Ibrahim Kushki, a candidate for parliament from Herat, for using his position as head of the Islamic labor union to promote his campaign and apply pressure on the local community to vote for him. Wolesi Jirga candidate Fatima Kazimiyan used her position as former head of the Bamyan Department of Women's Affairs to influence voters in her favor, but she was disqualified as candidate by the Joint Election Management Body. The Electoral Complaints Commission received 5,397 complaints during the parliamentary election season and disqualified 37 candidates (of over 6,000) from the campaign, including 3 for committing election offenses.

Militants targeted civilians and election officials in a campaign to derail national elections. A Taliban spokesman declared that all parliamentary candidates were high priority targets, and during the year antigovernment forces killed seven parliamentary candidates, two parliamentarians-elect, and at least four election workers. On June 22, unknown assailants killed a provincial council candidate from Uruzgan province. At year's end the case remained open. On August 3, unknown men opened fire on a female parliamentary candidate from Kandahar as she sat in a parked vehicle. The woman was unharmed, and no one was charged. Also in early August unknown assailants shot and injured Hawa Alam Nuristani, a female candidate, in Nuristan. She had received many death threats prior to the incident. In September the Taliban killed parliamentary candidate Mohammad Ashraf Ramazan, sparking mass demonstrations throughout Mazar-e-Sharif. While some alleged that the governor of Balkh province was involved in the assassination, three other suspects were detained for the attack. The case remained unresolved at year's end.

Unlike in previous years, the government did not ban any political parties, other than the Taliban. After some delays in registering parties whose leaders were former communists, over 70 accredited political parties registered with the Ministry of Justice and participated in parliamentary elections.

Political parties generally were able to conduct activities throughout the country, except in regions where antigovernment violence affected overall security. AIHRC and UNAMA reports revealed that officials sometimes interfered with political parties, mainly because of a lack of awareness of citizens' political rights. Political parties also exercised significant self-censorship. Political activities were visibly discouraged or curtailed in some parts of the country. However, UNAMA and AIHRC's conclusions were that political freedom improved substantially and steadily during the year.

Of the 249 seats in the Wolesi Jirga, the law requires that 10 seats be allocated to Kuchis and 68 seats to women. Approximately 25 percent of the total seats were

also reserved for women on each provincial council. In the Meshrano Jirga, 17 of the 34 seats appointed by the president were reserved for women, and 2 were reserved for persons with disabilities. Five women were elected to the Meshrano Jirga from the provincial councils, although there were no quotas for the number of women to be elected to the Meshrano Jirga from the provincial councils. There were two women in President Karzai's cabinet, one female governor, two women on the six-member electoral commission, and a female chair of the AIHRC.

While women's political participation gained a degree of acceptance, there were elements that resisted this trend. Antigovernment forces in the eastern, south-eastern, and southern regions of the country targeted women associated with the electoral process for violent attacks and threats. Of the 633 female candidates, 51 withdrew their candidacy, citing economic constraints as the cause for withdrawal. Despite these difficulties, citizens elected 17 women who would have won seats in the Wolesi Jirga even without the constitutional quota. A woman from Herat received the largest number of votes of any candidate in the province.

Government Corruption and Transparency.—There was widespread public perception of government corruption, including ministerial level involvement in the illegal narcotics trade. The government took few visible actions to combat corruption beyond public statements and the formation of an anticorruption office in the presidency. The president replaced several governors, reportedly because of their corrupt practices.

The constitution provides citizens the right to access government information, except in stances where this right 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.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Some of these human rights groups were based in Pakistan, with branches inside the country. The lack of security and instability in parts of the country severely reduced NGO activities in these areas. During the year suspected Taliban members fired on NGO vehicles, attacked NGO offices, and killed at least 30 aid workers (see sections 1.a. and 1.g.). In May authorities in Baghlan Province discovered the bodies of three women. Authorities suspected that at least one of the women was killed because she worked for an NGO. In October a Taliban ambush killed five Afghan aid workers from Afghan Help Development Services.

In June the government passed a new NGO law in an effort to reduce the number of for-profit companies operating as NGOs. Many NGOs supported this action as a way to differentiate themselves from those organizations taking advantage of the system to pose as NGOs.

Intimidation or violence directed at NGO workers increased during the year. There were reports in Kandahar that antigovernment forces increasingly attacked those accepting foreign assistance, causing villagers to begin refusing aid. On May 11, hundreds in Jalalabad rioted after reports of Koran desecration became public, resulting in 17 deaths and the burning of an AIHRC regional office. On October 12, unknown assailants killed five aid workers in Kandahar province. On October 16, Taliban members killed three men employed by international organizations for allegedly spying for foreign troops.

Local employees ran several international NGOs, including Global Rights (formerly International Human Rights Law Group) and HRW, which monitored the human rights situation inside the country.

The constitutionally mandated AIHRC continued its role in addressing human rights problems within the country. The nine-member appointed commission generally acted independently of the government, often voicing strong criticism of government institutions and actions, and accepting and investigating complaints of human rights abuses. The AIHRC established 10 offices outside Kabul.

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

The law provides for the equal rights of men and women; however, some local customs and practices that discriminated against women prevailed in much of the country. The severity of discrimination varied from area to area, depending on the local leadership's attitude toward education for girls and employment for women, and on local customs. Historically, the minority Shi'a faced discrimination from the majority Sunni population.

Women.—Women in urban areas regained some measure of access to public life, education, health care, and employment; however, the denial of educational opportunities during the Taliban years, as well as limited employment possibilities, continued to impede the ability of many women to improve their situation.

In February 2004 the government established the first unit of female police, and small numbers of women began to join the police force during the year; however, there were reports that female police officers found it difficult to be accepted as equals among their colleagues. For example, six female police officers in Kunduz faced discrimination and hostility, and spent the first four months on the job cleaning the police station. They were paid \$60 (3,000 AFNs), \$10 dollars (495 AFNs) less than their official salary, and they were forced to wear burkas over their uniforms under threats of violence. The Ministry of Interior reported that female recruitment was difficult because of cultural differences.

Violence against women persisted, including beatings, rapes, forced marriages, kidnappings, and honor killings. Such incidents generally went unreported, and most information on the abuse was anecdotal. On November 6, Farid Majid Naia beat and killed his wife, Nadia Anjuman, a poet, in Herat. While Naia admitted beating Anjuman, he claimed he stopped before she died. Naia claimed Anjuman ingested poison, but he did not allow an autopsy. Police detained Naia, and an investigation was ongoing at year's end.

The Ministry of Women's Affairs estimated that more than 50 percent of marriages involved women under 16, the legal minimum age of marriage for women.

It was difficult to document rapes in view of the associated social stigma; however, rape and domestic violence against women remained serious problems. Authorities considered rape to be a serious crime in the country, punishable by death, although this punishment did not extend to spousal rape.

Exchanging women or girls remained a customary method of resolving disputes or satisfying debts. For example, a 6-year-old girl's parents traded her to work as a housemaid to another family after the girl's brother backed out of an engagement with the family's daughter.

Honor killings continued to be a problem. For example on December 30, in Watapour District of Konar Province, a married woman and her lover were killed along with the lover's mother. The provincial police chief alleged that the honor killing was committed by the family of the woman's husband, and he registered a case against the attackers.

There were over 219 detained women, many of whom were imprisoned at the request of a family member. Many of the incarcerated opposed the wishes of the family in the choice of a marriage partner, contended with adultery charges, or faced bigamy charges from husbands who originally granted a divorce but changed their minds when the divorced wife remarried. Women also faced bigamy charges from husbands who had deserted their wives and then reappeared after the wives had remarried. Some women resided in detention facilities because they had run away from home because of domestic violence or the prospect of forced marriage; there were no shelters for women in these situations. In Pul-I-Charkhi Prison, there were several girls between the ages of 17 and 21 years of age who were detained because they were captured after fleeing abusive forced marriages.

There were approximately seven detention centers for women. In locations where detention facilities were not available, women were held separately from men or given to members of the community to be watched over in their homes.

Police in Ghazni Province discovered Agela, a 13-year-old girl who was sentenced to five years in prison after her much-older, former husband had the girl and her new husband arrested. At five years of age, Agela's family had married her to a 55-year-old man. When Agela was eight, the man changed his mind about the marriage and arranged for Agela to marry a younger man. She obtained a divorce and remarried. However, after returning from two years in Pakistan, the older man changed his mind and had her and her new husband arrested.

In northern areas, commanders targeted women, especially from Pashtun families, for sexual violence. During the year, there were at least four credible reports of soldiers and commanders loyal to local warlords raping girls, boys, and women in provinces in the eastern, southeastern, and central part of the country. In one of these cases, police arrested two perpetrators, but the case remained open at year's end. A total of 21 such cases were reported to the AIHRC during the year.

There were growing concerns about women committing self-immolation, most often to escape from oppressive family circumstances such as forced marriage. Although comprehensive and accurate statistics were unavailable, doctors reported that self-immolations were increasingly common among young women in the western part of the country. Incidents of self-immolation also were reported to be particularly high in Herat and Farah Provinces. In September a physician from the

Herat hospital's burn unit reported that it was not uncommon to have as many as 10 cases of self-immolation per day. The AIHRC reported 101 cases of self-immolation during the year, although they claimed the number could be several times higher than reported. Upon investigation, the AIHRC found most self-immolations occurred to escape abusive marriages and to avoid marrying husbands that the victims did not want to marry. The AIHRC investigated 280 cases at year's end.

Prostitution was illegal but occurred regularly.

There was no law specifically prohibiting sexual harassment. Discrimination against women in some areas was particularly harsh. Some local authorities excluded women from all employment outside the home, apart from the traditional work of women in agriculture; in some areas, women were forbidden to leave the home except in the company of a male relative (see section 2.d.). According to the Institute for Media, Policy and Civil Society (IMPACS), women in Logar were prohibited from traveling to the area of town where a community radio station was based, and male journalists often were not allowed to interview women for their reports. In Paktika Province, female parliamentary candidates reported that women were not allowed to leave their homes, were forbidden from attending schools, and needed the permission of their male elders to conduct activities outside the home. UNAMA reported that male relatives had forbidden some female students in Kabul from attending universities outside the country.

While some women continued out of personal choice to wear the burqa, many other women felt compelled to wear one out of fear of harassment or violence. Cases of local authorities policing aspects of women's appearance to conform to a conservative interpretation of Islam and local custom have diminished. Unlike in previous years, government-owned media allowed female singers on television over the objections of religious conservatives, effectively ending a ban dating to 1992 (see section 2.a.).

The Ministry of Foreign Affairs (MOFA) and International Organization for Migration (IOM) reported that there was an increase in the trafficking of persons during the year (see section 5, Trafficking).

Children.—The law makes education up to the intermediate level mandatory, and provides for free education up to the college, or bachelor's degree level. Local authorities made some progress in school attendance. A back-to-school campaign launched by the Ministry of Education increased school enrollment from 4.2 million children in 2003 to over 5.2 million during the year.

Since 2002 the number of girls attending school increased by over 30 percent; however, an estimated 1.5 million school-age girls were not enrolled in classes. Some provinces had no schools for girls to attend, and in Kabul, some male family members did not allow girls to attend school. UNICEF reported that 34 percent of children enrolled in school were girls, although this figure hid large disparities from province to province, with enrollment as low as 15 percent in some areas.

Violence impeded access to education in some parts of the country where Taliban and other extremists threatened or physically attacked teachers and students, especially in girls' schools. In December a bomb explosion injured four girls and one boy in Kandahar Province outside their school. Extremists dragged and shot a teacher in the same region for teaching girls. In April 2004 suspected Taliban burned and destroyed two primary schools in Kandahar Province. In August suspected Taliban loyalists burned down a girls' school in Logar Province.

Child abuse was endemic throughout the country, ranging from general neglect, physical abuse, abandonment, and confinement to work in order to pay off family debts. There were no child labor laws or other legislation to protect child abuse victims (see section 6.d.).

Children did not have adequate access to health care; only one children's hospital existed in the country, and it was not readily accessible to those outside Kabul.

Child trafficking was widespread and continued to be a problem during the year (see section 5, Trafficking).

There were no new reports of the recruitment of child soldiers since President Karzai's 2003 decree prohibiting the recruitment of children and young persons under the age of 22 into the army. In 2004 UNICEF initiated a program that demobilized and reintegrated approximately four thousand of an estimated eight thousand former child soldiers. The remaining four thousand soldiers were transitioned out of the military during the year.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, traffickers could be prosecuted under other laws. The country was a source and transit point for trafficked persons. A 2003 IOM report noted qualitative and anecdotal evidence of increased trafficking in girls and children to Pakistan, Iran, and the Gulf states; however, the lack of systematic monitoring prevented a quantitative

assessment of the scale of the problem. What little data were available suggested that trafficking in children, mainly boys, was the predominant form of trafficking, at least across borders. An IOM report released during the year confirmed that the buying and selling of women and girls continued.

The AIHRC tracked and investigated cases of child abduction and worked to assist in international investigations of trafficking.

There were continued reports of poor families promising young girls in marriage to satisfy family debts. There were a number of reports that children, particularly from the south and southeast, were trafficked to Pakistan to work in factories, or internally to work in brothels. UNICEF cited unconfirmed reports of the abduction of women and children in the southern part of the country.

Although prosecutions of traffickers increased, and the government devoted greater attention to trafficking in persons during the year, prosecution of perpetrators continued to be inconsistent. Between March and December, the AIHRC and UNICEF received more than 150 reports of child trafficking, and reported approximately 50 arrests of child traffickers. Information on convictions was not available. President Karzai issued a decree mandating the death penalty for child traffickers convicted of murder, and lengthened prison terms. Trafficking victims, especially those trafficked for sexual exploitation, faced societal discrimination, particularly in their home villages, and the risk of contracting sexually transmitted diseases.

At year's end according to the AIHRC, authorities repatriated 317 children from Saudi Arabia, Pakistan, Zambia, and Oman. The Ministry of Labor and Social Affairs, with the assistance of UNICEF, set up a transit center to assist with these returns, and other agencies such as the AIHRC helped with the children's reunification and reintegration.

Persons with Disabilities.—The law requires the state to assist persons with disabilities and protect their rights; however, the government took no measures to mandate accessibility to buildings for persons with disabilities.

An estimated 750 thousand persons suffered from disabilities requiring at least some form of assistance. Although community-based health and rehabilitation committees provided services to approximately 100 thousand persons, their activities were restricted to 60 out of 330 districts, and they were able to assist only a small number of those in need.

National/Racial/Ethnic Minorities.—During the year claims of social discrimination against Hazaras and other Shi'as continued. The Hazaras accused President Karzai, a Pashtun, of providing preferential treatment to Pashtuns and of ignoring minorities, especially Hazaras. In 2004 Pashtuns in Herat Province accused then governor Ismail Khan, a Tajik, of discrimination and abuses against their ethnic group. The nomadic Kuchis expressed concern that the voter registration process under-represented their population; however, the government and the Joint Electoral Management Body (JEMB) worked to address their concerns.

Other Societal Abuses and Discrimination.—The law criminalizes homosexual activity; however, the prohibition was only sporadically enforced.

Section 6. Worker Rights

a. The Right of Association.—The law provides broad provisions for protection of workers; however, little was known about their enforcement. Labor rights were not understood outside of the Ministry of Labor, and workers were not aware of their rights. There was no effective central authority to enforce them. The only significant employers in Kabul were the minimally functioning ministries and local and international NGOs.

b. The Right to Organize and Bargain Collectively.—The law does not provide for the right to strike; however, the country lacks a tradition of genuine labor-management bargaining. There were no known labor courts or other mechanisms for resolving labor disputes. Wages were determined by market forces, or, in the case of government workers, dictated by the government.

There were no reports of labor rallies or strikes.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, little information was available.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law prohibits children under the age of 15 from working more than 30 hours per week; however, there was no evidence that authorities in any part of the country enforced labor laws relating to the employment of children. UNICEF reported an estimated one million child laborers under the age of 14 in the country. UNICEF also estimated that over 24 percent of children between the ages of 7 and 14 were working. Children from the age of six often worked to help support their families by herding

animals, collecting paper, scrap metal and firewood, shining shoes, and begging. Some of these practices exposed children to the danger of landmines.

e. Acceptable Conditions of Work.—No information existed regarding a statutory minimum wage or maximum workweek, or the enforcement of safe labor practices. Many employers allotted workers time off for prayers and observance of religious holidays.

BANGLADESH

Bangladesh is a parliamentary democracy of 145 million citizens. Prime Minister Khaleda Zia, head of the Bangladesh Nationalist Party (BNP), assumed power in 2001 following multiparty parliamentary elections deemed to be free and fair by international and domestic observers. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, and the government continued to commit numerous serious abuses. The following human rights problems were reported:

- extrajudicial killings
- arbitrary arrest
- politically motivated violence and killings
- impunity for security forces
- physical and psychological torture
- lengthy pretrial detention
- restrictions on privacy
- violence against and restrictions on journalists
- infringement on religious freedom
- extensive government corruption
- violence against women and children
- trafficking in women and children
- limitation on 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.—Security forces committed numerous extrajudicial killings. The police, Bangladesh Rifles (BDR), and the Rapid Action Battalion (RAB) used unwarranted lethal force.

There was an increased number of killings by security personnel (see section 1.c.). Nearly all abuses went uninvestigated and unpunished. The resulting climate of impunity remained a serious obstacle to ending abuse and killings. In the few instances where charges were levied, punishment of those found guilty was predominantly administrative. According to press reports, law enforcement agencies, including the RAB, a paramilitary group composed of personnel from different law enforcement agencies, including the military, killed 396 persons this year. The deaths, all under unusual circumstances, occurred while an accused was in custody or during police operations; however, the government described the deaths of some identified criminals as occurring in crossfire between the RAB or police and criminal gangs. Of these 396 cases, 340 deaths were attributed to crossfire, of which the RAB was responsible for 107, the police 212, and other security forces 21. There were also a number of cases of deaths due to beatings or excessive force while in custody.

On February 21, one day after Delowar Hossain, a shopkeeper in the Naraynganj district was arrested by the RAB, Hossain was in a coma at Dhaka Medical College Hospital, where hospital staff noted severe abuse and torture marks on his body. Although Hossain later died, according to human rights investigators, no case or official report surrounding his death was filed at year's end. The RAB filed a case against Hossain after his death, alleging that he extorted money from vehicles passing over a bridge on the Dhaka-Chittagong road.

On May 31, citizens found the dead body of Abdul Kalam Azad Suman, a member of the Awami League's youth front, in Banosree, one day after his arrest by a RAB team in Khilgaon. While eye-witnesses told independent human rights investigators that the RAB arrested Suman from work, RAB members said Suman was working with a gang of criminals at Banosree, where the RAB team alleged Suman died in crossfire between RAB and the gang. The RAB filed two criminal cases against

Suman; however, some press reports suggested Suman's killing could have been a case of mistaken identity.

On July 8, the detective branch (DB) of Dhaka Metropolitan Police (DMP) shot and killed Khandker Iqbal Hossain a student at Jagannath college in Dhaka. Police said Hossain died after being shot in a crossfire, and filed two cases against Hossain after his death for possessing illegal weapons and for robbery. Independent human rights investigators found no evidence that Hossain was involved in any criminal activity. On August 18, Hossain's father filed a murder case with the court against nine DB officers and a union council chairman after police refused to register the case against the police officers. The court ordered the commissioner of the DMP to open an investigation, but at year's end no action was taken. There were no updates on the July 2004 extrajudicial killing by RAB forces of Awami League activist Sumon Ahmed Majumder, or the August 2004 extrajudicial killing by RAB forces of Pichchi Hannan.

Violence often resulting in deaths was a pervasive element in the country's politics (see sections 1.c. and 3). Supporters of different political parties, and often supporters of different factions within one party, frequently clashed with each other and with police during rallies and demonstrations. According to human rights organizations, 310 persons were killed and 8,997 injured in politically motivated violence during the year (see sections 1.c., 1.d., and 2.a.).

On January 27, former finance minister and Awami League leader Shah A.M.S. Kibria and four others died when a grenade exploded at an Awami League rally in the northeastern city of Habiganj. On March 20, police filed charges against 10 persons, mostly local BNP leaders for their alleged involvement in the attack. At year's end eight of the accused were in custody awaiting trial, while the two others remained at large.

On May 17, unknown gunmen shot and killed Khorshed Alam Bachchu, the Awami League's Dhaka legal affairs secretary, near his home in Dhaka. At year's end an investigation had not occurred and no charges were filed.

On August 17, coordinated bombings in 63 of the country's 64 districts killed 2 persons and injured approximately 100 others. Leaflets found at the sites of the bombings indicated that the Jamiatul Mujahideen Bangladesh (JMB), a recently outlawed Islamic militant group seeking to impose Shari'a (Islamic law), coordinated the attacks. By year's end the police and RAB arrested numerous suspected militants. On October 10, the criminal investigation department filed charges against the brother of JMB chief Sheikh Abdur Rahman and six others for their involvement in the blasts. On September 11, the government announced rewards for information leading to the arrest of Bangla Bhai, a vigilante who in 2004 began his own anticrime campaign, initially with the support of the police, and JMB leader Shaikh Abdur Rahman for the party's alleged involvement in the August 17 blasts. Bangla Bhai and Shaikh Abdur Rahman remained at large at year's end.

In August 2004 a grenade attack at a rally in Dhaka, where Awami League (AL) president Sheikh Hasina was speaking, killed at least 20 persons, including the AL women's affairs secretary Ivy Rahman, and injured several hundred others. By year's end authorities arrested 20 persons in connection with this attack.

In May 2004 an explosion at a Muslim shrine in Sylhet killed several persons and injured dozens of others, including the British High Commissioner to the country, Anwar Chowdhury. The government did not conduct a serious investigation and no charges were filed.

Vigilante killings were common. Newspapers reported 206 such incidents in the first 8 months of the year. On March 26, mobs beat five alleged robbers to death in Narsingdi district. On April 21, mobs at Matuail in Dhaka burned and killed two alleged extortionists. On June 19, mobs lynched two alleged extortionists in Khulna and one in Bagerhat.

Violence along the border with India remained a problem. Local human rights nongovernmental organizations (NGOs) reported that 104 citizens were killed and 66 were injured by security guards. According to press accounts, Border Security Force (BSF) members and other Indians killed 461 citizens in the border villages from January 2000 through the end of the year. On May 27, Bangladesh security forces killed six alleged Indian insurgents in the Moullvi bazaar area.

b. Disappearance.—Disappearances and kidnappings were problems during the year. According to press accounts, 335 people were kidnapped between January and August, 93 for political reasons. Kidnapping for profit continued to be a problem. For example on March 26, 14 people were abducted from a village in Rangamati. The captors demanded \$15,150 (one million taka) as ransom for release of the villagers. According to local journalists, the villagers were released after a few days, denying that any ransom was paid so they would not be targeted for kidnapping again.

On August 12, a RAB team arrested Shahid Chairman for his role in the 2003 kidnapping of BNP leader and businessman Jamaluddin Ahmed Choudhury.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—While the law prohibits torture and cruel, inhuman, or degrading punishment, security forces, the RAB, and police routinely employed physical and psychological torture as well as cruel, inhuman, and degrading treatment during arrests and interrogations. Torture consisted of threats and beatings and the use of electric shock. According to the Bangladesh Rehabilitation Center for Trauma Victims, there were 2,297 victims of torture and 15 deaths due to torture by security forces during the year (see sections 1.a., 1.d., and 2.a.). The government rarely charged, convicted, or punished those responsible, and a climate of impunity allowed such police abuses to continue.

On July 15, three off-duty RAB members assaulted Abu Bakar Sultan after Sultan asked the RAB members to stop attacking a driver in Uttora, near Dhaka. The RAB members blindfolded and handcuffed Sultan, took him to their office in Uttora, tied him to a tree, and repeatedly kicked, punched, and beat him with iron rods and hammers. After a senior RAB official acquainted with Sultan's family intervened, the RAB released Sultan and admitted him to a hospital with multiple fractures and swellings. On July 24, newspapers reported that RAB authorities withdrew three officers and sent them back to their home police departments. Police excused 10 others from duty in relation to the case.

Bangladesh Society for the Enforcement of Human Rights (BSEHR) recorded six incidents of rape by law enforcement personnel during the year. Due to strong social taboos, most NGO's believed the actual number of sexual assault was much higher.

On July 28, a riot police officer told a woman he found at a bus station in Dhaka that he wanted to hire her as domestic help. Instead of escorting her to his home, the officer took her to a hotel and raped her with the assistance of a male hotel employee. The woman filed a rape case, and an investigation was underway at year's end.

According to BSEHR, after police paid the family of Dolly Khatun, the woman who was raped by 14 police officers in December 2004, \$3 thousand (200 thousand Taka) in compensation, Ms. Khatun changed her official testimony, Khatun dropped her case. Police claimed that NGOs coerced Ms. Khatun to provide false testimony against police.

Law enforcement personnel accused of rape and torture generally were not investigated. In some cases police detained women in safe custody after they reported a rape, which often translated as confinement into jail cells where they endured poor conditions and were sometimes abused and raped again (see section 5).

Human rights groups and press reports indicated that vigilantism against women for perceived moral transgressions occurred in rural areas, often under a *fatwa* (see section 2.c.), and included punishments such as whipping. A local human rights organization recorded 35 incidents of *fatwas* calling for physical violence and social ostracization.

Rejected suitors, angry husbands, or those seeking revenge sometimes threw acid on a woman's face as an act of retribution (see section 5).

Prison and Detention Center Conditions.—Prison conditions were abysmal and were a contributing factor to custodial deaths. According to press reports, 76 persons died in prison and 210 died while in the custody of police and other security forces (see section 1.a.). All prisons were overcrowded and lacked adequate facilities. Government figures indicated that the existing prison population of 76,328 was nearly 300 percent of the official prison capacity of 27,545. Of the entire prison population, 51,801 were awaiting trial and 24,317 had been convicted, according to figures received by a human rights organization. In most cases, cells were so crowded that prisoners slept in shifts.

Juveniles were required by law to be detained separately from adults; however, in practice, due to a lack of facilities, many juveniles were incarcerated with adults. On July 9, the Dhaka Metropolitan Magistrate Court released a 9-year-old boy from a criminal case after investigators from a local human rights organization noticed him during a regular prison visit. Pretrial detainees were not held separately from convicted prisoners.

Although the law prohibits women in safe custody from being housed with criminals, in practice, no separate facilities existed.

In general, the government did not permit prison visits by independent human rights monitors, including the International Committee of the Red Cross (ICRC). Government-appointed committees 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.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, authorities frequently violated these provisions, even in non-preventive detention cases. The law specifically allows preventive detention, with specified safeguards, and provides for the detention of individuals on suspicion of criminal activity without an order from a magistrate or a warrant. The government arrested and detained persons arbitrarily and used national security legislation such as the Special Powers Act (SPA) of 1974 to detain citizens without filing formal charges or specific complaints.

Role of the Police and Security Apparatus.—Police were organized nationally, under the Ministry of Home Affairs (MOHA), and had a mandate to maintain internal security and general law and order. Police were generally ineffective, reluctant to investigate persons affiliated with the ruling party, and were used frequently for political purposes by the government.

The RAB, a better-equipped police unit drawing personnel from various police units and security agencies, including the military, developed plans for overall police reform, but few concrete steps were taken to address human rights problems. The RAB committed serious human rights violations.

There was widespread police corruption and a severe lack of resources, training, and discipline. Victims of police abuse were reluctant to file charges, as there was no independent body charged with investigation of criminal allegations against members of the police force. There were no developments during the year regarding the legality of the Joint Drive Indemnity Act, which barred persons from seeking remuneration for human rights violations that occurred during Operation Clean Heart in 2003.

Plaintiffs rarely accused police in criminal cases due to lengthy trial procedures, and out of fear of retribution against them or their families. This often created a climate of impunity for police.

Arrest and Detention.—The law does not provide for the use of warrants in all cases. Section 54 of the Criminal Procedure Code and Section 86 of the DMP Ordinance provide for the detention of persons on the suspicion of criminal activity without an order from a magistrate or a warrant, and the government regularly arrested persons without formal charges or specific complaints. Authorities misused ordinances during the year, and mass arrests, often politically motivated, continued to occur. According to Odhikar, a local human rights NGO, police arrested a total of 3,912 persons from January through August of the year under Section 54 and in the Dhaka metropolitan area another 25,374 under Sections 86 and 100 of the DMP Ordinance.

Authorities used Sections 54 and 86 to detain persons on false charges as punishment for the expression of views critical of or different from the government. In September 2004 in Dhaka, police arrested large numbers of opposition party members prior to the opposition's planned public rallies in October 2004. The high court, following the filing of a petition from human rights NGOs, barred police from arresting any citizen under Section 86 until October 2004; however, police continued to arrest persons under section 54. The law provides for the right to a prompt judicial determination; however, this was rarely enforced.

Under the SPA, 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, detainees were held for longer periods. In SPA cases, the magistrate must, by the 15th day, inform the detainee of the grounds of his detention, and an advisory board is supposed to examine the cases of SPA detainees after four months. Detainees have the right to appeal.

There is a functioning bail system in the regular courts, although, under certain security and crime law, a non-bailable period of detention exists. In August 2004 a high court panel ordered the release of over 7,400 detainees on bail who had been in prison without undergoing trial for more than 360 days. At year's end none of those ordered released were set free. Criminal detainees were granted access to attorneys; however, detainees were not entitled to be represented by a lawyer before an advisory board. State-funded defense attorneys rarely were provided, and there were few legal aid programs to offer financial assistance. Lawyers usually were allowed only after charges were filed. Legal representatives are granted access to their clients arrested under Section 54, but in practice, police rarely allowed lawyers to confer with their clients arrested under these sections of the law. Arbitrary arrests were common. The government used serial detentions to prevent the release of political activists (see section 4).

The government used Sections 54 and 86 to harass and intimidate members of the political opposition and their families. Police detained opposition activists prior to and during demonstrations without citing any legal authority, holding them until

the event was over (see section 2.b.). On June 4, police arrested Bidisha Ershad, wife of Jatiya Party chairman and former president Hossain Muhammad Ershad on politically motivated charges of money laundering, theft, and threatening to kill her husband. Following her release on bail 23 days after being taken into custody, a new warrant was issued against her for writing checks with insufficient funds. The charge was made by a member of President Ershad's staff, claiming a check she wrote to him for over \$300 thousand (20 million taka) was not honored by her bank. She was granted bail on this charge and at year's end, all cases were still pending.

It was difficult to estimate the total number of persons detained for political reasons. Many activists were charged with crimes, and many criminals claimed to be political activists. Most such detentions lasted for several days or weeks, and defendants in most cases received bail; however, dismissal of wrongful charges or acquittal took years.

According to a local human rights organization, 310 persons died and 8,997 were wounded in incidents of political violence. Police arrested 1,216 persons for political reasons during the year, most of whom were held for a short time prior to their release (see sections 1.a., 1.c., and 2.a.).

Arbitrary and lengthy pretrial detention remained a problem. The backlog of criminal cases stood at approximately 40 thousand. In addition, a recent survey by the Ministry of Law stated that 1,013 prisoners have made no court appearance in at least 6 months and many have served longer in pretrial detention than they would have had they been convicted and given the maximum sentences for their alleged crimes. According to Odikhar, approximately 75 percent of prison inmates were in pretrial detention.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, in practice a longstanding temporary provision of the constitution places the lower courts under the executive, and the courts were subject to executive influence largely because judges' appointments and their pay were dependent on the executive. The higher levels of the judiciary displayed some independence and often ruled against the government in criminal, civil, and politically controversial cases. Corruption, judicial inefficiency, targeted violence against judges, and a large backlog were serious problems.

For example on November 15, a bungled suicide attack killed two judges. Two weeks later four suicide attackers killed two policemen at the courthouse in Chittagong, and several attorneys inside the courthouse in Gazipur. On December 1, unknown assailants attacked the municipal complex in Gazipur that housed the courthouse. While no group claimed responsibility for these attacks, JMB leaflets were found at many of the crime scenes. In December judges went on strike seeking improved security.

The court system has two levels: the lower courts and the Supreme Court. Both hear civil and criminal cases. The lower courts consist of magistrates, who are part of the executive branch, and session and district judges, who belong to the judicial branch. The Supreme Court is divided into two sections: the high court and the appellate court. The high court hears original cases mostly dealing with constitutional issues and reviews cases from the lower courts. The appellate court has jurisdiction to hear appeals of judgments, decrees, orders, or sentences of the high court. Rulings of the appellate court are binding on all other courts.

The government continued to delay action on the Supreme Court order asking that administrative measures be put in place separating the judiciary from the executive. In April the Supreme Court gave the government its 20th extension to comply with the order, setting a deadline for October. On October 20, the Supreme Court refused to entertain the government's 21st appeal seeking another extension; however, at year's end the judiciary was not separated from the executive.

In September a high court panel rendered unconstitutional a 1980s amendment to the constitution which legitimized martial law. The Prime Minister's Office quickly arranged for a stay of the ruling because of its ramifications for the legacy of former president Ziaur Rahman, the late husband of the prime minister.

Trial Procedures.—The law provides accused persons with the right to be represented by counsel, to review accusatory material, to call witnesses, and to appeal verdicts. Judges decided cases without the use of juries. Trials were public, and defendants had the right to an attorney; however, state-funded attorneys were rarely provided. Under the provisions of the public safety act, Law and Order Disruption Crimes Speedy Trial Act (STA), and the Women and Children Repression Prevention Act, special tribunals hear cases and issue verdicts. Cases under these laws must be investigated and tried within specific time limits, although the law was unclear regarding the disposition of the case if it was not finished within the allotted

time period. Defendants were presumed innocent, had the right to appeal, and had the right to access government-held evidence.

The court system was plagued by corruption and a substantial backlog of cases, and trials were typically marked by extended continuances while the accused remained in prison. These conditions effectively prevented many persons from obtaining a fair trial. A September 2004 Transparency International survey revealed that magistrates, attorneys, and court officials demanded bribes from defendants in more than 67 percent of the cases filed under the STA (see section 1.d.).

In July 2004 parliament codified the use of Alternative Dispute Resolution (ADR) and extended its use to Sylhet and Chittagong. ADR allows citizens to have the opportunity to present their cases before filing for mediation. According to government sources, wider use of mediation in civil cases quickened the administration of justice. While the ADR system has popular appeal, no independent entity conducted an assessment of its fairness or impartiality. The Muslim Family Ordinance codifies traditional Islamic law concerning inheritance, marriage, and divorce for registered marriages for members of the Muslim community. There are similar sets of laws in place for the Hindu and Christian communities. Marriages in rural areas sometimes were not registered because of ignorance of the law.

Political Prisoners.—The government stated that it held no political prisoners; however, opposition parties and human rights monitors claimed the government arrested many political activists and convicted them on unfounded criminal charges (see section 1.d.). NGOs did not have access to prisoners.

On April 30, a Dhaka court granted bail to and released Salah Uddin Shoaib Chaudhury, who was detained at the airport for his attempted 2003 travel to Israel.

Property Restitution.—During this year the government did not take any measures to implement the 2001 Vested Property (Return) Act providing for property restitution to the mostly Hindus who had their property seized by the government after the 1965 India-Pakistan war under the Vested Property Act. The government did not publish a list of vested property under its control and as a result, the original land owners cannot reclaim their entitled property (see section 2.c.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law allowed intelligence and law enforcement agencies to tap phones with the permission of the chief executive of MOHA. The ordinance also gives the government the authority to prevent phone operators from delivering messages, in the interest of national security. In cases of national emergency, the government can revoke any permit to provide communications services, without providing compensation to the holder of the license. The ordinance went into effect during a recess in parliament, but must be approved as soon as parliament returns to become permanent law.

Police, even in cases not affiliated with the SPA, rarely obtained warrants, and officers violating these procedures were not punished. Reporters Without Borders (RSF) claimed that police monitored journalists' e-mail. The Special Branch of the police, National Security Intelligence, and the Directorate General of Forces Intelligence employed informers to report on and conduct surveillance on citizens perceived to be political opponents of the government.

The government on occasion forcibly resettled persons. In May and June the government evicted approximately 35 families from land they had traditionally occupied for generations in the Dinajpur area in order to implement a development project. When funding was pulled, the families were allowed to return to the area, but the government made no effort to compensate them for the loss of their homes. Affected residents were living in makeshift dwellings until they can afford to rebuild. In November 2004 the government evicted a slum in the Agargaon area of Dhaka. While a local NGO filed a writ petition challenging the eviction, the government stated that the slum area was a security threat for the upcoming South Asian Association for Regional Cooperation summit. The government indicated that it would replace the ad hoc residences with shops and other business establishments.

Police sometimes threatened family members of individuals who were wanted by police. During the year there were instances of physical abuse or detention of family members by law enforcement personnel to extract information regarding wanted relatives.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and press; however, in practice the government limited these rights.

Individuals were not always able to criticize the government publicly without fear of reprisal, and the government often attempted to impede criticism by prohibiting or dispersing political gatherings.

There were hundreds of daily and weekly independent publications. Many newspapers criticized government policies and activities, including those of the prime minister. In addition to one official government-owned news service, there was one private news service, United News of Bangladesh, which was affiliated with Agence France-Presse.

Newspaper ownership and content were not subject to direct government restriction. The government owned or significantly influenced one radio and some television stations; however, unlike in previous years, these stations did not focus the bulk of their coverage on the government.

While four private television stations were in operation, the government shut down one private radio station in May, ostensibly for failing to pay bills on time. The government issued four new private television and three new radio station licenses, giving the licenses allegedly to persons with close political connections. Cable operators generally functioned without government interference; however, all private stations were required to broadcast, without charge, some government news programs and speeches by the prime minister and the president as a condition of operation.

Attacks on journalists and newspapers, and government efforts to intimidate them, political party activists, and others, occurred frequently. Attacks against journalists by political activists were common during times of political violence, and some journalists were injured in police actions. According to a local human rights organization, 142 journalists were injured, 2 killed, 11 arrested, 4 kidnapped, 53 assaulted, and 249 threatened during the year.

Additionally unknown assailants attacked the news offices of the Bangladesh Songbad Songshtha, the national news agency and The *Daily Mathavhanga* in Chuadanga during the year. Editors and senior journalists allegedly received anonymous phone calls regarding published articles unfavorable to the government; however, threats of explicit violence were rare in such calls. In 2004 RSF criticized the treatment and security of journalists in the country.

On December 1, according to RSF, a bomb detonated by the JMB outside a public building in Gazipur, north of Dhaka, and wounded three journalists. On November 21, police beat Channel I television reporter Mahbub Matin while he was covering an AL demonstration. Police also wounded Matin's cameraman in the attack.

On May 2, authorities released journalist Salah Uddin Shoaib Chaudhury on bail for his attempted travel to Israel.

There were no developments in the January 2004 killing of Manik Chandra Saha, president of the Khulna press club, the June 2004 killing of the *Daily Janmabhumi* editor, or the October 2004 killing of Dipanker Chakrabarty, editor of the *Daily Durjoy Bangla*.

The government applied indirect pressure to coerce journalists into self-censorship. For example, in July 2004 an official of the prime minister's press wing threatened to limit a private television reporter's access to ruling party functions if he did not stop covering an opposition candidate's campaign. The reporter was withdrawn from election coverage by his supervisors for failing to comply.

Foreign publications and films were subject to review and censorship. A government-run 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. Video rental libraries and DVD shops stocked a wide variety of films, and government efforts to enforce censorship on rentals were sporadic and ineffective.

The government exercised censorship most often in cases of immodest or obscene photographs, perceived misrepresentation or defamation of Islam, and for objectionable comments regarding national leaders. The censor board requested the deletion of a line in the movie "My Architect" that misidentified the country as the poorest in the world during an August screening of the film. In April 2004 the government confiscated the April 2 issue of the Indian magazine, *Desh*, for using indecent words about Adam and Eve. In April 2004 the government forbade *Time* magazine from being placed in government establishments, including on the national airline, because of its negative portrayal of the country.

Novelist Taslima Nasreen remained abroad after being freed on bond in 2004 for criminal charges against her for allegedly insulting Muslim beliefs (see section 2.c.). There were no developments in this case during the year. The government did not directly restrict citizens' access to the Internet. RSF claimed police continued surveillance of journalists' e-mail (see section 1.f.).

The government did not limit academic freedom; however, authorities discouraged research on sensitive religious and political topics.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association, subject to restrictions in the interest of public order

and public health; however, the government frequently limited these rights. The law allows the government to ban assemblies of more than four persons, and, according to Ain O Shalish Kendro, a local human rights NGO, the government imposed 73 such bans from January to mid-August. The government sometimes used bans to prohibit rallies for security reasons.

On February 26, police in Dhaka used batons and teargas to disperse an AL Jubo (youth) League procession protesting militant groups and the price hike of food and petroleum products. Police wounded the Jubo League's general secretary along with 30 other activists and 2 police officers.

On March 2, police and BNP activists attacked buses carrying AL activists on their way to a rally in Paltan Maidan in Dhaka. According to press accounts, police injured over 50 AL activists in the attack.

On June 1, BNP activists sabotaged a meeting of the Bikalpa Dhara Bangladesh (BDB) party by damaging the meeting's venue. Former president Badruddoza Chowdhury headed the BDP party.

On November 22, both BNP activists and police disrupted the free movement of AL supporters on their way to the AL Grand Rally. Such obstructions took place in at least three sites within an hour's travel of Dhaka: Dhamrai, Keraniganj and Manikganj.

In January 2004 police and forest guards fired on a procession of tribal people protesting an eco-park project and killed Piren Snal, a member of the Garo tribe in Madhupur forest in Tangail district. Authorities conducted a judicial investigation, and the court dismissed the case in November 2004 due to insufficient information. Snal's family filed another petition contesting the legitimacy of the investigation's report, and the case was pending at year's end.

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.

c. Freedom of Religion.—The law establishes Islam as the state religion and also stipulates the right, subject to law, public order, and morality, to practice the religion of one's choice, and the government generally respected this right in practice. Although the government is secular, religion exerted a powerful influence on politics. Discrimination against members of religious minorities existed at both the governmental and societal level, and religious minorities were disadvantaged in practice in such areas as access to government jobs, political office, and access to justice.

Religious organizations are not required to register with the government, but the government requires all NGOs, including religious organizations, to register with the NGO Affairs Bureau if they receive foreign funds for social development projects. The government has the legal ability to cancel the registration of an NGO or to take other actions such as dissolving the executive committee of the NGO, freezing its bank accounts, or canceling projects; however, the government rarely used such powers and did not affect NGOs with religious affiliations.

Discrimination against Ahmadiyas continued during the year. The government ban on the publishing of Ahmadiya literature continued to be stayed by the high court, and the government did not appeal the stay to the appellate court, effectively allowing Ahmadiyas, for the time being, to publish their materials. At times police allowed, and even assisted, demonstrators in removing signs referring to Ahmadiya mosques as mosques. For example on April 17, approximately 15 thousand activists belonging to the International Khatme Nabuat Movement (INKMB) marched on an Ahmadiya mosque in Sathkira in the southwestern part of the country, and attempted to remove signs referring to the Ahmadiya place of worship as a mosque. Members of the Ahmadiya community tried to stop the group, but marchers began throwing stones. Police attempted to intervene, but instead of dissuading the activists, they assisted members of the INKMB in taking down and replacing the Ahmadiya sign.

As in previous years the government failed to prepare a list of property that was expropriated by the government from Hindus following the 1965 India-Pakistan War.

Foreign missionaries were allowed to work in the country, but their right to proselytize is not explicitly protected by the law. Some missionaries faced problems in obtaining visas or renewing visas, which must be renewed annually. Some foreign missionaries reported that internal security forces closely monitored their activities; however, no missionaries reported other government harassment during the year. The government allowed various religions to establish places of worship, train clergy, travel for religious purposes, and maintain links with co-religionists abroad. The law permits citizens to proselytize; however, strong social resistance to conversion

from Islam meant that many missionary efforts by Christian groups were aimed at serving communities that had been Christian for several generations.

Societal Abuses and Discrimination.—Discrimination against Ahmadiyas, Hindus, and Christians occurred during the year. On June 22, unknown actors set ablaze an Ahmadiya mosque in Nator, and two days later, unknown actors detonated several bombs at an Ahmadiya mosque in Brahmanbaria, and four bombs at an Ahmadiya mosque in Bhadugarh in the Branmanbaria area. At year's end eight persons were arrested in connection with the attacks.

On July 28, unknown assailants in Faridpur district killed two employees of the NGO Christian Life Bangladesh, allegedly because they showed an evangelical film. Police arrested several suspects for the killing, but at year's end police released all suspects and no charges were filed.

On December 22, after the government declined to meet the demands of the INKMB to label Ahmadiyas as non-Mulsims, the IKNMB and a splinter organization marched to the Ahmadiya complex in Dhaka and attempted to hang a sign that stated that the Ahmadiya mosque was not an actual mosque. The police stopped the IKNMB activists and their affiliates from proceeding and in the clashes that ensued between the 2 groups, 50 demonstrators and 7 police were wounded.

In January 2004 according to press reports, armed attackers led by a local BNP leader set on fire 20 houses belonging to Hindus, injuring 30 persons. Victims alleged that the attack originated over a pending property dispute.

In September 2004 unidentified assailants killed Dr. Joseph Gomes, a Christian convert, near his home in Jamalpur district. Police arrested a local madrasah teacher, Maulana Abdus Sobhan Munshi for the killing, held him for two weeks, and released him. At year's end no one else was charged for the crime.

Religious minorities were disadvantaged in access to government jobs and political office. Selection boards for government services often lacked minority group representation.

While there is no known local Jewish community, anti-Semitic commentary sometimes appeared in the press.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected these rights in practice; however, there were instances in which the government restricted these rights.

For example on June 22, government officials evicted and destroyed the homes of 35 families in Dinajpur district in the northwestern part of the country, in order to establish a government project at the site of their homes.

The law does not provide for exile, and it was not used.

The country's passports were invalid for travel to Israel.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, and the government has not established a system for providing protection to refugees. In practice, the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. Working with the UN High Commissioner for Refugees (UNHCR), the government provided temporary protection to individual asylum seekers whom the UNHCR interviewed and recognized as refugees on a case-by-case basis.

During the year the government denied asylum to Rohingya from Burma by categorizing them as illegal economic migrants and turned back as many persons as possible at the border. According to the UNHCR, some refugees returned by the government were fleeing persecution and were entitled to refugee status. Some unregistered persons in UNHCR camps returned illegally after their official repatriation to Burma, sharing food and lodging with relatives who received rations as registered members of the camps. On a number of occasions, camp officials handed some of the unregistered persons over to police, who sent them to prison under the Foreigners' Act. There were 114 Rohingya refugees in local prisons in the Cox's Bazaar area at year's end. UNHCR officials visited the detained refugees once a month.

There was a pattern of continued neglect of refugees, specifically towards the Rohingya and Bihari refugees. During the year 20,939 Rohingya refugees remained in 2 camps administered by the government in cooperation with the UNHCR, while another approximately 200 thousand Rohingyas not officially recognized as refugees lived outside the camps in the surrounding area of Teknaf and Cox's Bazaar. The government and UNHCR collaborated in the repatriation of 92 refugees. While UNHCR managed to substantially decrease the number of forced repatriation cases, they have received numerous allegations that government camp authorities placed

pressure on refugees to repatriate, intimidating them with arbitrary arrest, physical abuse, and harassment.

UNHCR field workers reported several cases of refugee abuse including rape, assault, domestic abuse, deprivation of food ration entitlements, and documentation problems. In March UNHCR received reports that a police inspector and his staff severely beat and attempted to rape 6 females, including 2 girls aged 8 and 12. UNHCR strongly protested to camp authorities but the government took no action. In December 2004 local villagers raped two minor female refugees; government camp authorities reportedly justified beating as a better alternative to detention or imprisonment for punishment. Government camp authorities, tasked with arbitration in the camps, continuously practiced confiscation of ration books as a mode of punishment and usually extorted bribes from refugees for return of their ration books. UNHCR received several hundred complaints of ration book confiscation incidents during the year.

The government placed excessive restrictions on refugees' freedom of movement and ability to work or earn a livelihood. The government continued to ignore UNHCR requests to allow those Rohingya refugees, unable to return to Burma, to work, benefit from local medical programs, or participate in the education system, insisting that all Rohingya refugees remained in camps until their return to Burma. The government claimed Rohingyans were not allowed to possess money, and that money in their possession could be confiscated at any time.

In June 2004 to protest the government's forced repatriation and mistreatment by security forces, some refugees in Kutupaalong camp staged demonstrations, refused their rations, and boycotted the government-run medical clinic. According to UNHCR, in June 2004 police fired approximately 15 rounds into a group of several hundred protestors throwing stones during a regular night patrol. No injuries were reported. In November 2004 police killed at least three Rohingya refugees on suspicion of arms smuggling and since then, several refugees remain unaccounted for. Police promised UNHCR it would investigate the incident, but at years end they failed to do so. The government has repeatedly rejected a UNHCR proposal to grant the refugees rights for temporary stay and freedom of movement under a self-reliance program.

Approximately 300 thousand non-Bengali Bihari Muslims who emigrated to the former East Pakistan during the 1947 partition and who supported Pakistan during the 1971 war continued to live in camps throughout the country. According to NGO Refugees International, they lived in camps with little access to education, medical attention, and in unsanitary conditions. Some Biharis declined citizenship in 1972 and were awaiting repatriation to Pakistan, where the government was reluctant to accept them. Many of the stranded Biharis born after 1971 have assimilated into the mainstream Bengali-speaking environment and likely would accept citizenship if it was offered.

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, albeit with significant instances of violence.

Members of parliament are elected at least every five years. The parliament has 345 members, 300 of whom are directly elected at-large, and another 45 of whom are female members nominated by political parties and indirectly elected by the other members of parliament. Party leaders appoint candidates for elections; some candidates allegedly purchased nomination from party leaders with generous campaign contributions or personal gifts.

Elections and Political Participation.—Khaleda Zia, leader of the BNP, became prime minister following parliamentary elections in 2001, deemed to be free and fair by international and domestic observers. The 2001 elections, supervised by a nonparty caretaker government, took place in a climate of sporadic violence and isolated irregularities. The BNP formed a four-party coalition government with the Jamaat-e-Islami, Bangladesh Jatiya Party, and the Islami Oikko Jote; however, the BNP and the opposition AL dominated the political scene.

In June 2004 the AL returned to parliament after a year's boycott; however, the AL walked out of parliament again in September 2004, alleging the speaker's biased role in favor of the ruling party. AL members attended a parliamentary session for a few minutes in February to protest the January 27 killing of former finance minister Shah A.M.S. Kibria (see section 1.a.). Throughout the year, AL legislators participated in the meetings of the parliamentary standing committees on various ministries but continued to boycott by-elections and attendance on the floor of the par-

liament. AL leaders complained of government restrictions and interference in their political activities including their right to organize (see section 2.b.).

There were seven women directly elected by the people in the parliament. In September political parties nominated 45 more women to fill in the newly established reserved seats for women created through the 14th constitutional amendment, ratified in May 2004. The seats were distributed among political parties proportionate to their numerical strength in parliament. The AL, which did not participate in the debate on adding the 45 seats, did not accept its share of reserved seats, saying that the amendment fell short of the promise to make a provision for women to be elected directly by the people. Some women's rights groups also protested the amendment on similar grounds and challenged its validity in the high court. The Supreme Court discharged the writs.

There were three women holding ministerial positions, including the position of prime minister. The leader of the opposition in parliament, who enjoyed the status of a cabinet minister, and 4 of the 79 judges of the Supreme Court were women.

There was no provision for providing parliamentary seats for minorities. Members of minority groups constituted approximately 12 percent of the population but held less than 3 percent of parliamentary seats.

Government Corruption and Transparency.—Corruption remained a problem throughout the government. Transparency International Bangladesh (TIB) indicated, in a report published in September, that systemic corruption posed a serious challenge to efforts to promote good governance. A TIB sample survey showed that most incidents of corruption involved the police, while the monetary value of corruption was the biggest in the Ministry of Communication. A similar survey released in September 2004 revealed that 90 percent of the population paid bribes to officials during land transfer registration and that magistrates, court officials, and lawyers solicited bribes in more than 67 percent of the cases filed under the STA. At the Chittagong port, officials belonging to the port authority and customs extracted an estimated annual \$133 million (7.83 billion taka) in bribes from importers and exporters. The Official Secrets Act of 1923 protected corrupt government officials from public scrutiny, hindering transparency and accountability at all levels.

In November 2004 the government announced the formation of a three-member anticorruption commission and during the year, the anticorruption commission focused largely on organizational challenges, failing to have an impact on combating corruption.

There is no law providing for public access to government information. Instead, the Official Secrets Act protects government officials from scrutiny, in the name of national security.

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

A wide variety of domestic and international human rights groups generally operated independently and without government restriction, investigating and publishing their findings on human rights cases. While human rights groups were often sharply critical of the government, they also practiced self-censorship, particularly on politically sensitive cases and subjects. Unlike in previous years, the government did not pressure individual human rights advocates by filing false allegations against them or by delaying reentry visas for international human rights activists. Missionaries who advocated on behalf of human rights faced problems regarding visas. A few human rights activists reported harassment by the intelligence agencies. For example the government blocked foreign funding to the PRIP Trust NGO because the organization's executive director, Aroma Dutta, championed minority rights during the 2001 general election. The government released part of the foreign funding to the PRIP Trust during the year.

In February several offices of leading NGOs, such as the Grameen Bank and Bangladesh Rural Advancement Committee (BRAC), came under attack in northern areas of the country. Authorities charged Dr. Asudullah Al-Gailb, the leader of Ahle Hadith, a local Islamic group for the bombings of the Grameen and BRAC offices and for targeting a series of cultural events and organizations for attack. On March 1, an office of CARITAS in Dinajpur caught fire which, according to some press accounts, was caused by the explosion of two bombs.

On April 19, Rafiq Ali, president of the country's chapter of Non-Violence International, was acquitted for his alleged involvement in an arms act case. Authorities arrested Mr. Ali on suspicion of arms smuggling because he, in collaboration with Forum Asia, was providing community education seminars on small arms smuggling.

The government cooperated with international organizations such as the UNHRC and the ICRC; however, the ICRC did not visit the country during the year. In De-

ember 2004 the Asia Pacific director of the UNHCR visited the country to investigate the status of the Rohingyas. Despite its election pledge and repeated public announcements, the government did not enact legislation establishing an independent National Human Rights Commission. Previous legislation authorizing the establishment of a Human Rights Ombudsman's Office continued to remain dormant.

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

The law prohibits discrimination; however, 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.—Domestic violence was widespread. Although violence against women was difficult to quantify, recent research showed that up to 50 percent of all women were victims of domestic violence. Much of the reported violence against women was related to disputes over dowries. During the year Odhikar found 227 reported dowry-related killings

The law prohibits rape and physical spousal abuse but makes no specific provision for spousal rape as a crime. During the year local NGOs found 907 reported incidents of rape and 91 of attempted rape. The press reported that 126 of the rape victims were killed and that another 14 committed suicide after being raped. Human rights monitors insisted that the actual number of rapes was higher, as many rape victims did not report the incidents in order to avoid social disgrace. Prosecution of rapists was uneven. On January 19 at a workshop organized by BSEHR, then attorney general A.F. Hassan Ariff said "judges consider rape like theft, robbery and other crimes."

On February 2, a Dhaka court sentenced Kala Guddu to 30-year's imprisonment for raping a 5-year-old girl in the Mohammadpur area of Dhaka in 2003.

Prostitution is legal and remained a problem during the year. The minimum age of 18 for legal prostitution was commonly ignored by authorities and circumvented by false statements of age. Procurers of minors were rarely prosecuted, and large numbers of child prostitutes worked in brothels. The UN Children's Fund estimated in 2004 that there were 10 thousand child prostitutes working in the country, but other estimates placed the figure as high as 29 thousand. Trafficking of women internally and internationally remained a problem (see section 5, Trafficking).

Laws specifically prohibit certain forms of discrimination against women, provide for special procedures for persons accused of violence against women and children, call for harsher penalties, provide compensation to victims, and require action against investigating officers for negligence or willful failure of duty; however, enforcement of these laws was weak. In 2003 parliament passed an amendment weakening provisions for dowry crimes and addressing the issue of suicide committed by female victims of acts of dishonor.

According to government sources, the Social Welfare Department ran six homes for vagrants and one training center for destitute persons, with a total capacity of 2,300 individuals. In addition, the Ministry of Women and Children Affairs ran six shelters, one each in the six divisional headquarters, for abused women and children. NGOs, such as the Bangladesh National Women Lawyers' Associations (BNWLA), also ran facilities to provide shelter to destitute persons and distressed women and children; however, this was insufficient to meet victims' shelter needs. As a result, the government often held women who filed rape complaints in safe custody, usually in prison. Safe custody frequently resulted in further abuses against victims, discouraged the filing of complaints by other women, and often continued for extended periods during which women were unable to gain release (see section 1.c.). In September 2004 there were 184 women in safe custody with 320 children accompanying them.

Incidents of vigilantism against women—sometimes led by religious leaders (by means of *fatwas*)—at times occurred, particularly in rural areas (see section 1.c.). Acid attacks remained a serious problem. Assailants threw acid in the faces of women and a growing number of men, leaving victims disfigured and often blind. According to Odhikar, 196 persons fell victim to acid attacks during the year. NGOs reported that 104 of the attacks were against women, 55 against men, and 37 against children. Few perpetrators of the acid attacks were prosecuted. In 2002, the government enacted legislation to control the availability of acid and reduce acid violence directed towards women, but lack of awareness of the law and poor enforcement limited its impact. The 2002 Acid Crime Control Law provides for speedier prosecutions in special tribunals and generally does not allow bail. While the special tribunals were not entirely effective, according to the Acid Survivors Foundation, tribunals convicted 36 persons for acid attacks.

Women remained in a subordinate position in society, and the government did not act effectively to protect their basic rights (see section 1.e.). 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 made up 80 percent of garment factory staff. Programs run by the government and NGOs extending micro-credit to rural women improved their economic power. Pay was generally comparable for men and women.

Children.—The government was generally responsive to children's rights and welfare. Many of these efforts were supplemented by local and foreign NGOs, and these joint efforts allowed the country to make significant progress in improving health, nutrition, and education; however, slightly more than one-half of all children were chronically malnourished.

Under the law, children between ages 6 and 10 must attend school through the fifth grade. Primary education is free and compulsory, but the implementation of compulsory education fell short in part because parents kept children out of school, preferring instead to have them working for money or helping with household chores. Government incentives to families sending children to schools contributed significantly to the rise in the enrollments in primary schools in recent years. According to 2001 statistics provided by Campaign for Popular Education, 80 percent of school-age children were enrolled in schools with almost an equal male-female ratio. In a 2002 report, the Campaign for Popular Education stated that 70 percent of the children completed education up to the fifth grade and that the dropout rate was 24.3 percent. According to Education Ministry statistics, 97 percent of school-age children were enrolled in primary schools during the year. The government expanded incentives for female education by making education free for girls up to grade 12 and using a stipend system from grades 6 to 12. Boys received free education only to grade 5.

There were a few government hospitals designated exclusively for children, and boys and girls had equal access to medical care in government hospitals.

While the legal age of marriage is 18 for girls and 21 for boys, underage marriage was a significant problem. Reliable statistics about underage marriage were difficult to find because marriage registrations were sporadic and birth registrations to verify child's actual age were not universal. Mass Line Media, a local human rights NGO, conducted a survey in 2004 which estimated that 40 percent of all marriages could be considered child marriages. In an effort to prevent child marriage, 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 groups, 205 children were abducted, nearly 314 suffered unnatural deaths, and more than 486 children fell victim to serious abuses such as rape, sexual harassment, torture, and acid attack during the year. According to child rights activists, violence against children declined due to growing awareness regarding child rights.

Reports from human rights monitors indicated that child abandonment, kidnapping, and trafficking continued to be serious and widespread problems. Despite certain advances, trafficking of children continued to be a problem (see section 5, Trafficking).

Child labor remained a problem and frequently resulted in the abuse of children, mainly through mistreatment by employers during domestic service and occasionally included servitude and prostitution (see sections 6.c. and 6.d.). Children were seriously injured or killed in workplaces.

According to a 2002 report published by the government news agency Bangladesh Shongbad Shongsta, there were approximately 400 thousand homeless children, of whom as many as 150 thousand had no knowledge of their parents. Few facilities existed for children whose parents were incarcerated.

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking remained a serious problem. 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 65 cases were disposed of by the special courts dealing with incidents of repression against women and children. Courts convicted 28 persons and ordered sentences ranging from death to 10 years in prison. Besides police, the coast guard, BDR, the RAB, and a number of NGOs recovered and assisted victims of trafficking.

There was extensive trafficking in both women and children, primarily to India, Pakistan, Bahrain, the United Arab Emirates (UAE), Kuwait, and destinations within the country, mainly for prostitution and in some instances for labor servitude. Some boys were trafficked to the Middle East to be used as camel jockeys.

According to government sources, law enforcement personnel recovered 139 victims of trafficking during the year. A cooperative effort between NGOs, the government, and the UAE, resulted in the repatriation of 164 camel jockeys, 159 of whom were reunited with their biological parents. The other five remained in NGO shelters at year's end, receiving social and vocation skills training while the NGO attempted to locate their families.

BNWLA rescued 314 trafficking victims from within the country and repatriated 32 others from the UAE and India during the year. The number of persons arrested for trafficking was difficult to obtain, as charges against traffickers were sometimes for lesser crimes, such as crossing borders without proper documents. According to the Center for Women and Child Services, most trafficked boys were under 10 years of age, while most trafficked girls were between 11 and 16 years of age.

The exact number of women and children trafficked was unknown. Most trafficked persons were lured by promises of good jobs or marriage, and some were forced into involuntary servitude outside of and within the country. Parents sometimes willingly sent their children away to escape poverty. Unwed mothers, orphans, and others outside of the normal family support system were also susceptible. Traffickers living abroad often arrived in a village to marry a woman, only to dispose of her upon arrival in the destination country, where women were sold into bonded labor, menial jobs, or prostitution. Criminal gangs conducted some of the trafficking. The border with India was loosely controlled, especially around Jessore and Benapole, making illegal border crossings easy.

Police and local government officials often ignored trafficking in women and children for prostitution and were easily bribed (see sections 1.c. and 5).

The government continued its efforts to combat trafficking in persons through the trafficking monitoring cell at police headquarters, a monthly inter-ministerial committee headed by the secretary of the Home Ministry. The cell monitored the activities of the police and assisted in prosecuting relevant cases. The monitoring units formed in each of the 64 district headquarters sent updated statistics to the police headquarters. Arrests and prosecutions continued steadily. Nevertheless, the government's capacity to address this issue remained limited. Government projects included conducting awareness campaigns, research, lobbying, and rescue and rehabilitation programs. Additionally the secretary of the Home Ministry met monthly with NGOs working on anti-trafficking issues to facilitate coordination and cooperation between the government and civil society.

The government convened two special inter-ministerial committees, with the cooperation of local and international NGOs, to monitor the repatriation, rehabilitation, and social integration of repatriated camel jockeys. While the government provided support for returning trafficking victims, government-run shelters were generally inadequate and poorly run. The government increasingly referred repatriated victims to private shelter homes for care.

Many NGOs, community-based organizations, and local government leaders worked on 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, some trafficking cases were prosecuted. There was also some success in increasing shelter capacity and developing rehabilitation programs.

Persons with Disabilities.—The law provides for equal treatment and freedom from discrimination for persons with disabilities; however, 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 are the government agencies responsible for protecting the rights of persons with disabilities. The Ministry of Social Welfare set up a task force, composed of government officials and members of NGOs, who adopted an action plan in 2004 to improve the overall welfare of the disabled. The plan awaits cabinet approval.

Government facilities for treating persons with mental handicaps were inadequate. Several private initiatives existed in the areas of medical and vocational rehabilitation, as well as employment of persons with disabilities.

Indigenous People.—Tribal people have had a marginal ability to influence decisions concerning the use of their lands. Despite the 1997 Chittagong Hill Tracts (CHT) Peace Accord, which ended 25 years of insurgency in the CHT, law and order problems and alleged human rights violations continued, as did dissatisfaction with the implementation of the Peace Accord. The Land Commission dealing with land

disputes between tribal individuals and Bengali settlers did not function effectively in addressing critical land disputes. Tribal leaders remained disappointed with the lack of assistance provided to those who left the area during the insurgency.

According to a human rights organization, 25 persons died and 71 were injured in violence in the CHT during the year. During the same period, 81 persons were kidnapped, 2 women were raped, and 35 persons were arrested. *Parbatya Chattagram Jana Samhati Samiti* and the anti accord tribal group, United People's Democratic Forum (UPDF), blamed each other for most of the abductions in Khagrachhari and Rangamati in 2004. In February 2004 armed tribal youths abducted seven UPDF members from a wedding party at Shabekong in Naniarchar. There were also reports of violence involving Bengalis and tribal people in Rangamati.

Tribal people in other areas also reported loss of land to Bengali Muslims. Government initiated ecoparks and national park projects on land traditionally owned by indigenous communities continued to progress in the Moulvibazar and Modhupur forest area despite the resistance efforts of indigenous groups.

Other Societal Abuses and Discrimination.—The law provides for punishment for intercourse “against the order of nature with any man, woman or animal.” In practice the law was rarely invoked; however, according to Human Rights Watch (HRW), gay men were harassed and raped by police and local criminals without proper methods of recourse, due to societal discrimination against gays. HRW also found that gay men often faced threats of extortion. According to HRW, considerable official and societal discrimination existed against those who provided HIV prevention services, and against high-risk groups likely to spread HIV/AIDS.

Section 6. 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; however, the government did not always respect these rights in practice. The total work force was approximately 65 million persons, of whom 1.8 million belonged to unions, most of which were affiliated with political parties. There were no reliable labor statistics for the large informal sector, in which the vast majority (75 to 80 percent) of citizens worked. Special legislation on unionization prohibits the formation of unions in the country's Export Processing Zones (EPZs). According to the law a workplace must have 30 percent union participation for union registration. Would-be unionists technically are forbidden to engage in many activities such as member advocacy prior to registration and legally are not protected from employer retaliation during this period. Labor activists protested that this requirement severely restricted workers' rights to organize, particularly in small enterprises and the private sector during the year, and the International Labor Organization (ILO) recommended that the government amend the 30 percent provision. The ILO also recommended that the government amend provisions that bar registration of a union composed of workers from different workplaces owned by different employers this year. An estimated 15 percent of the approximately 5,450 labor unions were affiliated with 25 officially registered National Trade Union (NTU) centers. There were also several unregistered NTUs.

Unions were generally highly politicized, and unions were strongest in state-owned enterprises and in such institutions as the government-run port in Chittagong. Civil service and security force employees were forbidden to join unions because of their highly political character. Teachers in both the public and the private sector were not allowed to form trade unions.

The Registrar of Trade Unions may cancel registration of a union with the concurrence of the Labor Court, but no such actions were known to have taken place during the year. There were provisions in the Industrial Relations Ordinance for the immunity of registered unions or union officers from civil liability. Enforcement of these provisions was uneven. In past illegal work actions, such as transportation blockades, police officers arrested union members under the SPA or regular criminal codes.

Trade unionists were required to obtain government clearance to travel to ILO meetings.

The International Confederation of Free Trade Unions (ICFTU) continued to note a number of exclusions of international trade union rights under the Industrial Relations Ordinance during the year. These were restrictions regarding membership in unions and election of union officials, restrictions on activities of public servants' associations, restrictions on the right to organize and bargain collectively in EPZs, and restrictions on the right to strike.

b. The Right to Organize and Bargain Collectively.—The law does not ban discrimination by employers against union members and organizers, and in practice, private sector employers usually discouraged any union activity, sometimes working

in collaboration with local police. The Registrar of Trade Unions rules on discrimination complaints. In a number of cases, the labor court ordered the reinstatement of workers fired for union activities. However, the labor court's overall effectiveness was hampered by a serious case backlog. Alternative dispute resolution techniques began to be used to decrease the backlog.

Collective bargaining, other than in EPZs, is legal on the condition that unions are legally registered by the Registrar of Trade Unions as collective bargaining agents represent workers. Collective bargaining occurred occasionally in large private enterprises such as pharmaceuticals, jute, or textiles, but due to concerns over job security, most workers did not practice collective bargaining. Collective bargaining in small private enterprises generally did not occur.

The right to strike is not recognized specifically by the law, but strikes were a common form of workers' protest and were recognized as a legitimate avenue for addressing unresolved grievances by the Industrial Relations Ordinance of 1969. In addition opposition political parties used general strikes to pressure the government to meet political demands. Some employees organized in professional associations or unregistered unions went on strike during the year.

The Essential Services Ordinance permits the government to bar strikes for three months in any sector it declares essential. During the year the government continued to impose the ordinance, originally applied in 2002, to the Power Development Board, the Dhaka Electric Supply Authority, Bangladesh Biman Airline, the Chittagong Port Authority, and the Bangladesh Petroleum Corporation.

In 2003 the government announced it would not allow collective bargaining authority in jute mills during production time. In the past the government had applied this ban to national airline pilots, water supply workers, and shipping employees. The ban may be renewed for three-month periods. The government is empowered to prohibit a strike or lockout at any time before or after the strike or lockout begins and to refer the dispute to the labor court.

Mechanisms for conciliation, arbitration, and labor court dispute resolution are established under the Industrial Relations Ordinance. Workers have the right to strike in the event of a failure to settle. If the strike lasts 30 days or longer, the government may prohibit it and refer the dispute to the labor court for adjudication, although this has not happened in recent years.

There are EPZs in the country. In July 2004 parliament passed a bill allowing limited freedom of association rights in EPZs. The country's five EPZs are exempt from the application of the Employment of Labor (Standing Orders) Act, the Industrial Relations Ordinance, and the Factories Act, thereby excluding workers in the zones from protection for their rights to organize and bargain collectively, and from coverage by laws governing wages, hours, and safety and health standards. While substitutes for some of the provisions of these laws are implemented through EPZ regulations unions for the EPZ officials did not permit Worker Representation and Welfare Committee (WRWC) members to meet with WRWC members in other factories, did not permit them to meet with outside labor organizations on their own time after the completion of the work day, and did not consistently afford time for WRWC members to meet together in their factories. The WRWCs do not have collective bargaining rights but could negotiate with the employer on working conditions, remuneration or payment for productivity enhancements and worker education programs.

During the year at the Ring Shine Factory located in the Savar EPZ, workers were submitted to arrest, and contrary to the EPZ law, were locked out of the factory. At year's end EPZ officials had not hired the desired number of sufficiently trained and experienced conciliators and arbitrators.

At a number of other factories, there were acts of management intimidation, abuse, and improprieties during the election process, against workers during and after the elections, including suspension of workers and elected WRWC members, without due process, and contrary to EPZ law. EPZ officials provided limited instruction to factory management and workers on the duties and responsibilities of management and workers under the law. In the aftermath of the labor dispute, however, a labor management agreement was reached, which permitted extensive training of management and labor on their roles and responsibilities under the law.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or bonded labor, including by children; however, the government did not enforce this prohibition effectively. The Factories Act and Shops and Establishments Act created inspection mechanisms to strength laws against forced labor, but these laws were not enforced rigorously, partly because resources were scarce. There was no bonded or forced labor in large-scale enterprises; nevertheless, numerous domestic servants, including many children, worked in conditions that resembled servitude and many suffered physical abuse, sometimes resulting in death. There continued to be numer-

ous reports of violence against domestic workers. The government brought criminal charges against employers who abused domestic servants. Many impoverished families settled instead for financial compensation. Trafficking of women and children was a problem (see section 5, Trafficking).

d. Prohibition of Child Labor and Minimum Age for Employment.—Because of widespread poverty many children began to work at a very young age. According to the government's National Child Labor Survey published in 2003 the government estimated that approximately 3.2 million children between the ages of 5 and 14 years worked. Working children were found in 200 different types of activities, such as shrimp farming, of which 49 were regarded as harmful to children's physical and mental well-being. Sometimes children were seriously injured or killed in workplaces. Children often worked alongside family members in small-scale and subsistence agriculture. Hours usually were long, the pay low, and the conditions hazardous. Many children worked in the *beedi* (hand-rolled cigarette) industry, and children under 18 years sometimes worked in hazardous circumstances in the leather industry or the brick-breaking industry. There continued to be reports of several thousand children forced to work long hours on fish farms on small islands in southwestern Bagerhat district for five months a year in hazardous conditions. The farm owners paid and fed the children poorly. The coast guard periodically rescued and returned child workers to their home villages.

Children routinely performed domestic work. The government sometimes brought criminal charges against employers who abused domestic servants. Under the law every child must attend school through grade 5 or the age of 10 years. However, there was no effective mechanism to enforce this provision.

There was virtually no enforcement of child labor laws outside the export garment sector. Penalties for child labor violations were nominal fines ranging from an estimated \$4 to \$10 (228 to 570 takas). Most child workers were employed in agriculture and other informal sectors, where no government oversight occurred.

In 2003 the Bangladesh Garment Manufacturers' and Exporters Association (BGMEA), the Department of Labor, and the ILO jointly inspected an estimated 2,200 BGMEA-member factories with the declared intention of eliminating child labor in the garment sector. They found that less than 1 percent of the factories surveyed employed child labor, down from over 25 percent in 1997.

The non-formal education directorate of the government, international organizations, and some NGO partners sponsored programs to provide education to some working children in urban slum areas around the country. The government has been a member of ILO—International Program on the Elimination of Child Labor since 1994. A foreign government-ILO collaborative program included a \$six million (approximately 400 million taka) project to eliminate the worst forms of child labor in five targeted industries: *beedi* production, matchmaking, tanneries, construction, and child domestic workers. As of 2003, 19,874 children had been removed from hazardous work, 19,508 were attending non-formal education training, 7,623 had been admitted to formal schooling, and 3,060 were receiving prevocational training. Employers from 51 *beedi* and brick-breaking industries have declared their sites child labor free.

e. Acceptable Conditions of Work.—There is no national minimum wage. Instead, the wage commission, which convenes sporadically, sets wages and benefits for each industry, using a range based on skill level. In most cases, private sector employers ignored this wage structure. For example, in the garment industry, many factories did not pay legal minimum wages, and it was common for workers of smaller factories to experience delays in receiving their pay or to receive trainee wages well past the maximum three months. In 2001 according to the ICFTU, 21.7 percent of textile workers in the country earned the minimum wage. Wages in the EPZs were generally higher than outside the zones. The declared minimum monthly wage for a skilled industrial worker was approximately \$58 (taka 3,400) for a worker in an EPZ and approximately \$45 (taka 2,650) for a worker outside an EPZ. This was not sufficient to provide a decent standard of living for a worker and family.

In September the government returned the country to a 5 day, 40 hour work week, with a Friday and Saturday weekend. The law applied to government employees, banks, NGOs, and other office workers. Factory workers continued to labor under the old law, a 48 hour work week, with a mandated 1 day off, and up to 12 hours of overtime. The law was enforced poorly.

The Factories Act nominally sets occupational health and safety standards. The law is comprehensive but largely was ignored by employers. Workers may resort to legal action for enforcement of the law's provisions, but few cases actually were prosecuted. Enforcement by the Labor Ministry's industrial inspectors was weak, due both to the low number of labor inspectors and to endemic corruption and ineffi-

ciency among inspectors. Due to a high unemployment rate and inadequate enforcement of the laws, workers demanding correction of dangerous working conditions or refusing to participate in perceived dangerous activities risked losing their jobs.

BHUTAN

Bhutan is a hereditary monarchy with a population of approximately 800 thousand. King Jigme Singye Wangchuck governs with the support of a National Assembly, a cabinet, and a Council of Ministers. As head of state, the king is responsible for matters relating to the country's security and sovereignty. Citizens elected 106 of the 150 representatives in the National Assembly in 2003, 10 elected by the National Assembly, 10 nominated by the clergy, and 10 nominated by the king. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record improved during the year, although problems remained. A few prisoners arbitrarily detained for violence related to a pro-democracy movement in 1991–92 were released, but others remained in prison. Unlike in previous years, there were no reports of police conducting house-to-house searches for dissidents. Human rights problems included:

- limited right to change government
- restrictions on speech and press
- restrictions on assembly and association
- restrictions on freedom of religion
- limited political expression
- restrictions on political parties
- discrimination against the ethnic Nepali minority

The government released a draft constitution in March that included provisions protecting political and human rights, and held open and active discussions regarding the merits of the document during the year. By year's end the constitution had yet to be enacted, although nationwide deliberations continued. The government issued identity cards, which previously had been denied to some citizens of Nepali descent, making land registration, travel, and school attendance more accessible.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions.—Prison conditions reportedly were Spartan. The International Committee of the Red Cross (ICRC) conducted one visit to the Lodrai Sub-district Jail and Chamgang Central Jail during the year. Prisoners incarcerated for politically motivated crimes were kept in areas separate from common criminals.

During the year the government extended the ICRC prison visits program for another year, as it has done annually since a five year Memorandum of Understanding was signed by the ICRC and the government in 1998. Authorities allowed the ICRC generally unhindered access to prisons.

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 Royal Bhutan Police, under the control of the Ministry of Home and Cultural Affairs, was responsible for internal security. The Royal Bhutan Army was responsible for external threats but also had some internal security responsibilities, such as guarding forests, providing VIP protection, and conducting counter insurgency operations. Corruption and impunity were not problems during the year.

Arrest and Detention.—Under the law police may not arrest a person without a warrant, must immediately inform the accused of the charge, must make a reasonable effort to inform the person's family of the arrest, and must bring an arrested person before a court within 24 hours, exclusive of travel time from place of arrest,

and the police normally respected the law in practice. There were no reports of arbitrary arrest or detention during the year. Human rights activists alleged that legal protections were incomplete, due to a shortage of defense attorneys.

According to the ICRC, six persons detained in connection with political dissidence and violence in 1991–92 were released during the year. An undetermined number of Nepal-based refugees who attempted to return to the country were turned over to Indian authorities and returned to camps in Nepal.

e. Denial of Fair Public Trial.—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

The judiciary is overseen by the National Judicial Commission. The judicial system consists of three branches, the subdivisional court, the district court, and a high court. Only the king can pardon or commute a sentence. Judges to the High Court and 20 district courts were appointed by the king on the recommendation of the National Judicial Commission and may be removed, suspended, or censured by him, only at the request of the National Judicial Commission. The chief justice, using recommendations of the Judicial Service Council, made judicial appointments to the sub-divisional courts.

The Office of Legal Affairs (OLA) is the judicial support department of the government and conducted state prosecutions, drafted and reviewed legislation, and rendered legal counsel. The OLA consists of a legal services division with domestic, international, and human rights sections, and a prosecution division, with a criminal section and a civil section.

Trial Procedures.—The law stipulates that defendants receive a fair and speedy trial, as long as it does not limit the ability of the accused to prepare adequately a defense, and these conditions generally were respected. Bail is also available depending on the severity of charges, the suspect's past criminal record, likelihood of flight, and potential threat to the public. A preliminary hearing must be convened within 10 days of registration with the appropriate court. Before any guilty or no contest plea is registered, the court must determine that the accused is mentally sound and understands the consequences of such action. Defendants enjoy a presumption of innocence and all cases must be proved to the "beyond a reasonable doubt" standard. Juries were not used. Current punishments include imprisonment, probation, fines, or restitution. Defendants have the right to appeal to the High Court and may make a final appeal to the king, who traditionally delegated the decision to the Royal Advisory Council. Trials were conducted publicly, except for family law and cases involving juveniles.

Questions on family law such as marriage, divorce, adoption, and child custody were addressed under the Marriage Act of 1980, amended in 1996.

Citizens generally had the right to a fair trial. Courts adjudicated criminal cases and a variety of civil matters under both customary law and the legal code codified in 2001 as the Bhutan Civil and Criminal Procedure Code. State-appointed prosecutors filed charges and prosecuted cases for offenses against the state. In other cases the relevant organizations and departments of government filed charges and conducted the prosecution. Unlike in previous years, there were no reports that defendants were not presented with charges in their own language or that defendants were not given enough time to prepare their defense. Defendants were able to confront and question witnesses who were testifying against them and were able to present witnesses and evidence on their behalf. Defendants and their attorneys had access to government-held evidence.

Defendants may choose legal representation from a list of 165 government-licensed advocates. The OLA stated that most defendants sought legal assistance only in serious criminal cases. Since there was a legal requirement that citizens pay for their legal counsel, many citizens unable to afford representation did not receive sufficient legal assistance. Village headmen, who had the power to arbitrate disputes, constituted the bottom rung of the judicial system. Magistrates, each with responsibility for a block of villages, could review the decisions of village headmen. Magistrates' decisions could be appealed to district judges, of which there was one for each of the country's 20 districts. The High Court in Thimphu is the country's supreme court.

Political Prisoners.—Approximately 70 persons remained incarcerated in connection with violence associated with political dissidence from 1991–92.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice. Unlike in previous years, there were no reports that police conducted house to house searches for suspected dissidents without explanation or legal justification. Unlike in previous years, there were no reports of illegal searches during the year. Only an authorized agent of the government may search mail without a

warrant and only if there is cause to suspect that the parcel contains narcotics, contraband such as weapons or explosives, or information that could be harmful to public health or security. Wiretapping is not allowed without a warrant.

Human rights groups argued that the government interfered with peoples' rights by requiring all citizens, including minorities, to wear the traditional dress of the ethnic majority in all public places. This law was strictly enforced only for Buddhist religious buildings, government offices, schools, official functions, and public ceremonies; otherwise, the enforcement of this law was sporadic, and it was common to see people in nontraditional dress throughout the country (see section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law does not provide for freedom of speech and of the press, but the government generally respected these rights in practice. Individuals were able to criticize the government publicly; however, the government did at times attempt to impede criticism and monitor political meetings.

The country's only regular publication was *Kuensel*, a biweekly newspaper. It also reported stories on a daily basis through its online edition. Unlike in previous years, according to the editorial staff and management of *Kuensel*, the publication was independent, funded entirely through advertising and subscription revenue, and was free to report on any subject. During the year the paper often published stories critical of the government and highlighted societal problems. Its board consisted of senior civil servants and private individuals. *Kuensel* was published in English, Dzongkha, and Nepali. The government maintained that it did not restrict the creation of new publications. Foreign newspapers and magazines were available.

There were no reports of government restrictions on the Internet or academic freedom; however, the government regulated all material on the Internet that it considered pornographic.

Radio and television stations, run by the Bhutan Broadcasting Service, were government owned; however, a large variety of television programming was available in the country, including CNN, BBC, and a number of Indian news services. The government did not censor content.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law does not provide for freedom of assembly, and the government restricted this right in practice.

Freedom of Association.—The law does not provide for freedom of association, and the government restricted this right in practice by not permitting the creation of political parties and organizations; however, the government allowed civic and business organizations to function freely. The government regarded political parties organized by ethnic Nepalese exiles—the Bhutan People's Party, the Bhutan National Democratic Party, and the Druk National Congress—as illegal, terrorist, and antinational. These parties, which sought the repatriation of refugees and democratic reforms, were unable to conduct activities inside the country.

c. Freedom of Religion.—The law provides for freedom of religion; however, the government restricted this right in practice, and Buddhism was the state religion. Approximately two-thirds of the population practiced either Drukpa Kagyupa or Nyingmapa Buddhism.

The government subsidized monasteries and shrines of the Drukpa sect and provided aid to approximately one-third of the Kingdom's 12 thousand monks. The government also provided financial assistance for the construction of Drukpa Kagyupa and Nyingmapa Buddhist temples and shrines. The government maintained that it supported the monastic establishment in accordance with an agreement it made with the Buddhists in 1956, when the government seized land from them for redistribution to landless citizens. In exchange, the government committed to providing financial support to the monasteries. Societal pressure for conformity with Drukpa Kagyupa norms was prevalent.

The king declared one major Hindu festival a national holiday, and the royal family participated in it. There was only one Hindu temple in Thimphu. NGOs reported that permission from the government to build religious temples was required but rarely granted for non-Buddhist religious buildings, with the last reported Hindu temple constructed in the early 1990s. Followers of religions other than Buddhism and Hinduism were free to worship in private homes but could not erect religious buildings or congregate in public. International Christian relief organizations and Jesuit priests were active in education and humanitarian activities. Mahayana Buddhism is the state religion. Proselytism by other faiths is illegal. Although there was no legal prohibition against conversion, some NGOs claimed that the government prohibited conversions by Buddhists to other faiths.

Societal Abuses and Discrimination.—According to dissidents living outside the country, only Buddhist religious teaching was permitted in schools. Some dissidents claimed that Buddhist prayer is compulsory in all government-run schools; however, the government contended that Buddhist teaching was permitted only in monastic schools and that religious teaching was forbidden in other schools. NGOs confirmed that, although students take part in a prayer session each morning, it is non-denominational and not compulsory. Applicants for government services sometimes were asked their religion before services were rendered. All government civil servants were required to take an oath of allegiance to the king, the country, and the people. The oath did not have religious content, but a Buddhist Lama administered it (see section 5).

The country does not have a Jewish population, and there were no reports of anti-Semitic acts.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, but the government placed limits on them in practice. There were highway checkpoints at which persons were required to show their citizenship identity cards to pass. Citizens traveling in border regions were required to show these cards at immigration check points, even at check points that were located a considerable distance from the country's open border with India. Issuance of security clearances for ethnic Nepalese was often based on the status of their relatives, and clearances were frequently denied to family members of ethnic Nepalese currently living in refugee camps in Nepal. Many ethnic Nepalese claimed that they were frequently denied government security clearances, a prerequisite for obtaining a passport. All citizens must have a security clearance to attend higher education or work for the government.

The law does not address forced exile. Although the government officially does not use formal exile, in previous years many political dissidents freed under government amnesties stated that they were released on the condition that they depart the country. The government denied this. Many of those released subsequently registered at refugee camps in Nepal, and some relocated to India.

Protection of Refugees.—The law does not provide for the granting of asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, the government recognizes the right to asylum in accordance with international refugee law. The government has not established a system for providing protection to refugees. There were no reports that the government did not provide protection against *refoulement*, the return of persons to a country where they feared persecution.

The government restricted emigration and prohibited the return of citizens who left the country. The country's citizenship laws state that persons who have left the country of their own accord, without the knowledge of the government, or whose names are not recorded in the citizenship register maintained in the Ministry of Home Affairs (MHA), will not be considered citizens of the country. Some dissidents claimed that this law was created specifically to deny citizenship to ethnic Nepalese Bhutanese. Over the years, local government offices gave many such persons identity cards without registering them with the central offices of the MHA.

During the mid- and late-1980s, citizenship became a highly contentious matter in the country. Citizenship requirements resulted in the denaturalization of many ethnic Nepalese residents. Those who lost citizenship under the 1985 law were permitted to apply for naturalization only if they were able to prove 15 years of residence prior to 1985. Those who could not meet the new citizenship requirements were deemed to be illegal immigrants. In addition citizens who voluntarily emigrated, without government approval, lost their citizenship. Beginning in 1988 the government expelled large numbers of ethnic Nepalese under the new citizenship law.

Many ethnic Nepalese went to camps in Nepal where they remained. According to the UN High Commissioner for Refugees (UNHCR), tens of thousands of ethnic Nepalese from the country were living in seven camps in southeastern Nepal. Also, approximately 15 thousand additional persons fled the country and resided in India, but UNHCR did not accord them refugee status. Since 1993 there have been a series of negotiations with Nepal to resolve the refugee problem.

In 2003 the Joint Verification Team (JVT), composed of representatives of both the country and Nepal, released verification results for one refugee camp, the Khudunabari camp. It identified 2.4 percent of the total camp population as eligible Bhutanese citizens, with the absolute right of return; 70.6 percent as "voluntary migrants," who would have to apply for citizenship if they chose to return; 24.2 percent

as “nonnationals” who could not return; and 2 percent as criminals who would have to face charges if they returned to the country. All refugees remained in Nepal at year’s end. During the year the government did not restart the JVT process, citing concerns over the security situation in Nepal following a 2003 attack on its verification team members by refugees in the Khudunabari camp and the ongoing Maoist insurgency in Nepal.

The Citizenship Act provides for the 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 of Bhutan.” The Home Ministry later declared in a circular that any nationals leaving the country to assist “antinationalists,” and the families of such persons, would forfeit their citizenship. Human rights groups alleged that these provisions were used widely to revoke the citizenship of ethnic Nepalese who subsequently were expelled from or otherwise departed the country.

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

Citizens do not have the right to change their government. The country is a monarchy with sovereign power vested in the king. However, in March the government released a draft constitution, stipulating a constitutional monarchy, with limited right to change the government, a separation of powers, and protection of human rights. At year’s end the draft constitution had not been enacted.

Elections and Political Participation.—In 2003 citizens elected 105 members of the 150-member National Assembly. Of the remaining 45 seats, the Buddhist clergy selected 10, and the king appointed 35. The National Assembly has the power to remove ministers whom the king nominates but has never done so. Political authority has devolved to the National Assembly, which can pass legislation; however, ultimate control still resided in the king and the cabinet, which is composed of the Royal Advisory Council and the Council of Ministers.

The National Assembly, which convenes twice a year, in June and November, elects the Council of Ministers and the Royal Advisory Council. A special session, if necessary, can be called at any time.

Each national assembly constituency consisted of a number of villages. Each village was permitted to nominate one candidate, and the vote was conducted by secret ballot, according to national election law. There is no provision for self nomination, and the law states that no person may campaign for the candidacy or canvass through other means. Political parties were not allowed. Parties established abroad by ethnic Nepalese and eastern Bhutanese were banned (see section 2.b.).

In 2003 human rights activists claimed that the only time individual citizens had involvement in choosing a national assembly representative was when asked by the village headman to provide consensus approval of a village candidate. The activists claimed that district officials suggested candidates, who in turn took their direction from the central government, and that consensus approval occurred at a public gathering. Human rights activists stated that there was no secret ballot, but the government refuted these allegations. According to the government, a secret ballot was mandatory, even if there was only one candidate.

The king nominates all cabinet ministers, who are then elected by the National Assembly. A minister’s term is limited to five years, after which he or she must pass a vote of confidence in the National Assembly to remain in office. The National Assembly, by a two-thirds vote of no confidence, can require the king to abdicate to be replaced by the next person in the line of succession. The position of chairman rotates on a yearly basis, beginning with the minister who received the most votes. The chairman of the council of ministers also serves as prime minister and head of government. On September 5, Minister of Agriculture Lyonpo Sangay Ngedup became chairman and prime minister.

There were 15 women in the 150-member National Assembly, and 2 women on the High Court. Women constituted 23 percent of civil service employees, and women held more than 30 percent of positions at the Ministry of Foreign Affairs. There was no provision for allocating a set number or percentage of parliamentary seats for women or members of minority groups.

All major ethnic groups were represented in the National Assembly, including 14 ethnic Nepalese. However, NGOs reported that ethnic Nepalese were underrepresented in the assembly.

Government Corruption and Transparency.—There were reports of government corruption during the year. 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 how government funds were spent. The anticorruption fraud alert system allowed citizens to post information on its website regarding corrupt practices.

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

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

There were no legal human rights organizations in the country. The government regarded human rights groups established by ethnic Nepalese exiles—the Human Rights Organization of Bhutan, the People’s Forum for Human Rights in Bhutan, and the Association of Human Rights Activists-Bhutan—as political organizations and did not permit them to operate in the country.

ICRC representatives conducted an annual prison visit, and the government provided them unhindered access to detention facilities, including those in southern districts inhabited by ethnic Nepalese. The ICRC stated that the government was open and forthright during prison visits and indicated that biannual checks were no longer necessary.

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

The law does not prohibit discrimination on the basis of race, sex, disability, language, or social status.

Women.—The law does not specifically prohibit domestic violence against women; however, the provisions of criminal law generally cover such crimes. Women have the same legal rights as men, and NGOs reported that women faced no 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. However, NGOs reported that many women did not report rape because of cultural taboos or because they were unaware of their legal options.

The Rape Act contains a clear definition of criminal sexual assault and specified penalties. In cases of rape involving minors, sentences range from 5 to 17 years in prison. In extreme cases a rapist may be imprisoned for life. Spousal rape is illegal. There were few reported instances of sexual harassment.

Women were accorded respect in the traditions of most ethnic groups and participated freely in the social and economic life of the country. Inheritance law provides for equal inheritance among all sons and daughters, but traditional inheritance practices, which vary among ethnic groups, may be observed if the heirs choose to forego legal challenges. For example traditional inheritance laws for the majority of Buddhists stipulate that daughters inherit family land. As a result, 60 percent of rural women hold land registration titles. These inheritance practices favoring daughters reportedly accounted for the large numbers 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. Female school enrollment was 48.3 percent and was growing in response to government policies encouraging and funding universal attendance. Women in unskilled jobs generally were paid slightly less than men in the same positions. In 2004 women constituted approximately 30 percent of the formal work force. Dowries were not customary, even among ethnic Nepalese Hindus.

Questions related to family law, including divorce, child custody, and inheritance, were adjudicated by the Marriage Act of 1996. The minimum age of marriage for women was 18 years. The law provides for equal treatment for both men and women. Polygamy is allowed, provided the first wife gives her permission. Polyandry is permitted but rare. Marriages may be arranged by the marriage partners themselves as well as by their parents. The law requires that all marriages be registered.

The National Women’s Association of Bhutan, active since 1981, tried to encourage women to improve their living standards and socio-economic status. In 2004 the government created a National Commission for Women and Children, which actively defended the rights of women and children during the year.

Children.—The government demonstrated its commitment to child welfare by rapidly expanding the number of primary schools, healthcare facilities, and immunization programs. Prior to the government’s decision to focus on education in 1961, the country had 11 schools with approximately 400 students per school. There are currently 476 educational facilities with approximately 162 thousand students in the country. The government provides 11 years of universal, free, and compulsory primary school education, and primary school enrollment increased 4.4 percent per year since 1995, with enrollment of girls increasing at 5.6 percent. During the year the participation rate for children in primary schools was 88 percent. UN Children’s Fund figures estimate net primary school enrollment to be between 66 to 69 percent. The government stated the rate of completion of 6 years of schooling increased from

48 percent in 1996 to 80 percent during the year. The Ministry of Education reported that 79 percent of enrolled students completed eight years of schooling. Completion rates for girls continued to surpass that of boys. Rural areas were home to 80 percent of all primary schools; unlike in previous years, schools in the southern part of the country were open.

There is no law barring ethnic Nepalese children from attending school; however, the government denied security clearance forms to children of ethnic Nepalese whom the government claimed were antinationals, thus denying them higher education. Exile groups claimed that Nepalese secondary-level students scoring highly on national exams, because of their inability to obtain a passport, were not always given the same advantages as other students, such as the chance to study abroad at government expense, particularly if they were related to prominent dissidents or refugees. The government refuted this claim, stating that all scholarships were merit based. Child labor was prevalent (see section 6.d.). Child abuse was rare.

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—The law does not specifically protect the rights of citizens with disabilities; however, there was no evidence of official discrimination against persons with disabilities in matters of employment, education, access to health care, or in the provision of other state services. The law stipulates that new buildings must be constructed to allow access for persons with disabilities; however, the law was not always enforced. Under the Disability Prevention and Rehabilitation Program, the government seeks to provide medical rehabilitation for all types of disabilities, promote integration of children with disabilities into normal schools, support activities for vocational rehabilitation of adults with disabilities, and foster community awareness and social integration of persons with disabilities in community activities.

National/Racial/Ethnic Minorities.—In previous years the government committed numerous abuses against ethnic Nepalese. This led to the departure of an estimated 100 thousand ethnic Nepalese. At the time the government claimed it was concerned about the rapid influx and associated political agitation of ethnic Nepalese. Since then the government claimed that ethnic and gender discrimination in employment was not a problem. It stated that ethnic Nepalese constituted 25 percent of the population and that they filled 16 percent of the civil service and government employment; however, Bhutanese human rights groups active outside the country claimed that ethnic Nepalese actually make up approximately one-third of the country's population, and that the government deliberately underreported their numbers. Ethnic Nepalese claimed that they were subject to discrimination and prejudice. Specifically, ethnic Nepalese with relatives in refugee camps in Nepal were often denied "No Objection Certificates" (a type of security clearance) needed for education past the tenth grade and for access to government employment.

The law requires that the national dress be worn for official occasions and as a school uniform, and 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. After the expulsion of many ethnic Nepalese in the early 1990s, discriminatory measures with regard to ethnic minority communities continued.

Drukpa Bhutanese have been resettled in the southern part of the country on land vacated by the ethnic Nepalese living in refugee camps in Nepal (see section 2.d.). Human rights groups maintained that this prejudiced any eventual outcome of negotiations over the return of the refugees to the country. The government maintained that ethnic Nepalese from the south occasionally were resettled on more fertile land in other parts of the country. The failure of the government to facilitate the return of ethnic Nepalese refugees reinforced societal prejudices against this group. In the same fashion the government's one-time only policy on the forced retirement of refugee family members in government service and the resettlement of Drukpa on land vacated by expelled ethnic Nepalese in the south reinforced prejudice against ethnic Nepalese. The government claimed that the resettlement scheme was part of a nationwide program to discourage migration to urban centers and reduce landless people's dependence on migrant farming.

Section 6. Worker Rights

a. The Right of Association.—The law allows workers to form or join unions; however, there were no labor unions operating in the country during the year. The government maintained that, with very little industrialization, there was little labor to be organized. The Ministry of Employment reported in 2004 that the total labor force numbered 216,500 persons, 166,200 of whom worked in rural areas. In 2003

a labor ministry was established to analyze the country's labor situation and provide vocational training.

b. The Right to Organize and Bargain Collectively.—The law does not authorize collective bargaining or the right to strike.

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. The system of mandatory national work service was abolished in 1996. The government required community service to build local roads, schools, and hospitals. The government and NGOs stated that rural workers often volunteered to work on national projects and were paid slightly above the minimum wage of \$2.50 (100 ngultrums) per day. There was no evidence to suggest that the government subjected domestic workers to coerced or bonded labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law does not specifically prohibit forced or compulsory labor by children, but there were no reports that such practices occurred. There is no minimum age for employment; however, the minimum age of 18 was established “in all matters of the state.” Children under 18 often performed agricultural work and chores on family farms and shops after school and during holidays. NGOs estimated that there were approximately 45 thousand persons under 18 who were working. A large majority of these children worked for their families.

e. Acceptable Conditions of Work.—A 1994 circular established wage rates, rules, and regulations for labor recruiting agencies. It also established the regulations for payment of worker's compensation. Wage rates were revised periodically, and started from a minimum of roughly \$2.50 (100 ngultrums) per day plus various allowances paid in cash or kind. This minimum wage provided a decent standard of living for a worker and family. The workday was defined as eight hours with a one-hour lunch break, and employers must grant regular days of leisure. Work in excess of this must be paid at one and one-half times normal rates.

Civil service regulations require equal pay for equal work for men and women. All citizens are entitled to free medical care. Persons who could not receive adequate care within the country the government transported to other countries (usually India) for treatment. Workers are eligible for compensation in the case of partial or total disability, and, in the event of death, their families are entitled to compensation. Existing labor regulations do not grant workers the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment.

INDIA

India is a longstanding multiparty, federal, parliamentary democracy with a bicameral parliament and a population of approximately 1.1 billion. Manmohan Singh was named prime minister following his Congress party-led coalition's victory in the April–May 2004 general elections in which 675 million citizens participated. The 2004 general elections, the various 2004 state assembly elections, as well as the February state elections in Arunachal Pradesh Jharkhand, Bihar and repoll in October/November, and Haryana, were considered free and fair, despite scattered episodes of violence. While the civilian authorities generally maintained effective control of the security forces there were frequent instances in which elements of the security forces acted independently.

The government generally respected the rights of its citizens; however, numerous serious problems remained. Government officials used special antiterrorism legislation to justify the excessive use of force while combating active insurgencies in Jammu and Kashmir and several northeastern states. Security force officials who committed human rights abuses generally enjoyed de facto impunity, although there were reports of investigations into individual abuse cases as well as punishment of some perpetrators by the court system. Corruption was endemic in the government and police forces, and the government made little attempt to combat the problem, except for a few instances highlighted by the media. The lack of firm accountability permeated the government and security forces, creating an atmosphere in which human rights violations often went unpunished. Although the country has numerous laws protecting human rights, enforcement was lax and convictions were rare. Social acceptance of caste-based discrimination remained omnipresent, and for many, validated human rights violations against persons belonging to lower castes. The additional following human rights problems were reported:

- extrajudicial killings and killings of persons in custody
- torture and rape by police and security forces
- poor prison conditions, lengthy pretrial detention without charge, and prolonged detention while undergoing trial
- occasional limits on press freedom and freedom of movement
- harassment and arrest of human rights monitors
- corruption at all levels of government
- legal and societal discrimination against women
- forced prostitution, child prostitution, and female infanticide and feticide
- trafficking in women and children
- discrimination against persons with disabilities
- discrimination and violence against indigenous people and scheduled castes and tribes
- violence based on caste or religion
- exploitation of indentured, bonded, and child labor.

Separatist guerrillas and terrorists in Kashmir and the northeast committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. Insurgents also engaged in widespread torture, rape, and other forms of violence, including beheadings, kidnapping, and extortion.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Government forces continued arbitrary and unlawful deprivation of life of those in custody. Police and prison officers also committed extrajudicial killings of suspected insurgents and suspected criminals by the use of staged encounter killings. Terrorist and militant groups killed members of rival factions, government security forces, government officials, and civilians in Jammu and Kashmir, several northeastern states, and in the Naxalite belt in the eastern part of the country (see section 1.g.).

The Home Ministry reported that security forces killed 927 insurgents and terrorists during the year. The ministry also reported that insurgent and terrorist attacks in Jammu and Kashmir declined in 2004 with 733 civilians (including 92 women, 32 children, and 62 political workers), 330 security force members, and 976 insurgents killed. Security forces often used staged encounter killings to cover up the murders of captured non-Kashmiri insurgents and terrorists from Pakistan or other countries, often after torturing them. Human rights groups accused security forces of targeting suspected terrorists, militants and their suspected supporters. There were no widely accepted data on the magnitude of extrajudicial killings in Jammu and Kashmir, with estimates or reports depending on the political orientation of the source. In 2003 the Jammu and Kashmir state human rights commission received 15 complaints relating to custodial deaths and 27 complaints relating to disappearances. Human rights organizations sought to clarify these cases by submitting numerous requests to Jammu and Kashmir authorities, but they received inadequate and unsatisfactory responses.

According to human rights activists, press reports, and anecdotal accounts, the bodies of persons suspected of terrorism and detained by security forces in Jammu and Kashmir often had bullet wounds and/or marks of torture. The South Asian Human Rights Documentation Center (SAHRDC) reported that the number of such custodial deaths decreased slightly during the year, most likely due to the overall decline in infiltrations, as well as a new emphasis by the government on reducing human rights violations. Custodial deaths however, remained a serious problem.

On October 4, the Laopora Police lodged a First Information Report against 10 army officers accused of the February 2004 killing of 5 civilian porters used as human shields by security forces in Kashmir. The case remained open at year's end. In November residents of Pattan, a village 17 miles from Srinagar alleged that militants killed 2 village men after the army used them as human shields in an operation. After protests erupted, the authorities promised to investigate and the investigation remained open at year's end.

In July security forces killed three teenaged boys they mistook for terrorists in the Kupwara area of Kashmir. Security forces maintained that the boys were outside at night during a curfew and ran away when challenged by the officers. The killing sparked widespread protests in the area, and the state government ordered an inquiry, which was not completed by year's end. On July 26, the army offered compensation and an apology to the boys' families.

At year's end no action was taken on the Manorama Devi rape/custodial death case from July 2004. The Upendra Commission, formed in November 2004 to investigate the Devi case, submitted its report to the state government. The inquiry was concluded without the DNA fingerprints and blood samples of the Assam Rifles personnel on duty the night of the incident, and the contents of the report were not made public. On June 23, the state high court directed the Manipur government to send the report to the Union Home Ministry for the Center's action and to make the report public. On August 31, the Manipur government appealed the New Delhi High Court's decision. The appeal was pending at year's end.

Authorities often delayed prosecutions in custodial death cases. In November the National Crime Records Bureau reported two cases of custodial rape in 2004 and noted that authorities completed two trials in 2003 and 2004 with no convictions.

In an attempt to expedite prosecutions, in May authorities updated a law requiring a coroner to conduct a medical examination within 24 hours of a death in custody.

The Asian Center for Human Rights (ACHR) reported the Jammu and Kashmir government ordered 54 inquiries into alleged extra-judicial killings and other human rights violations in 2004 and completed only one. The Home Ministry reported in December that custodial deaths decreased from 183 in 2002-03 to 136 for the 2004 calendar year. In April 2004 Chief of Army Staff General N.C. Vij reported that of 1,340 allegations of human rights abuses reportedly committed from 1990 to 2000 in Jammu and Kashmir, evidence substantiated 33, and 71 personnel had been punished. In May 2004 the National Human Rights Commission (NHRC) reported that during the past 14 years of insurgency in Jammu and Kashmir, the army had punished 131 of its personnel for human rights violations, sentencing 2 persons to life sentences and 33 others to jail terms of 11 to 12 years; the army dismissed 11 personnel and ordered various other punishments for the remainder. The Ministry of Defense stated that since its establishment in 1993, the army human rights office received 342 reports of human rights violations by armed forces in the northeast. The office investigated 318 cases and determined that 290 allegations were baseless. The army acted on the remaining 28 cases, punishing 63 army personnel with penalties ranging from life imprisonment to dismissal and censure. Human rights activists commented that the actual number of abuses was much higher than those reported by the military.

In August the Central Bureau of Investigation recommended the prosecution of four army officers for the killing of five civilians in a staged encounter killing in 2000. The Central Administrative Tribunal ruled the related 2003 suspension of Senior Superintendent of Police Khan was illegal and reinstated him.

In January soldiers engaged in an altercation with passengers on a train near Shikohabad railway station in Uttar Pradesh and pushed five passengers off the moving train, killing them. The Railway Police arrested the soldiers and ordered an investigation which remained open at year's end.

According to press reports, members of the security forces rarely were held accountable for staged encounter killings. In February security forces killed Zahoor Ahmed Bhat, a car mechanic, in Magam, Kashmir, while he was returning home from a holiday. On May 6, the army ordered an inquiry into the deaths of two women and a child killed in an encounter between the Assam Rifles and Kuki insurgents in Manipur the day before. The inquiry continued at year's end.

Although the authorities generally did not report encounter deaths that occurred in Jammu and Kashmir to the NHRC, the Association of Parents of Disappeared Persons (APDP) claimed that as of June 2004, there had been 54 custodial deaths since the current Jammu and Kashmir state government assumed office in 2002.

The NHRC reported 136 deaths in police custody and 1,357 deaths in judicial custody countrywide from the beginning of 2004 until March. The NHRC recommended approximately \$10 thousand (Rs. 400 thousand) as compensation in 5 cases of death in police custody, and \$5,681 (Rs. 250 thousand) in the three cases of deaths while in judicial custody.

During the year the killing of civilians continued in the course of counterinsurgency operations in Jammu and Kashmir. Human rights activists stated that accurate numbers were not available due to limited access to the region, but ACHR alleged that 733 civilians were killed in 2004.

The Armed Forces Special Powers Act (AFSPA) and the Disturbed Areas Act remained in effect in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura, where active and violent secessionist movements existed. The Disturbed Areas Act gives police extraordinary powers of arrest and detention, and the AFSPA provides search and arrest powers without warrants (see section 1.d.). Human rights groups alleged that security forces operated with virtual impunity in areas under the act.

Accountability by the Jammu and Kashmir government remained a serious problem. Human rights groups estimated that 30 to 35 thousand persons died during the two decades of conflict in Jammu and Kashmir, but there were no reliable estimates of the number of deaths resulting directly from abuses. The Jammu and Kashmir governor, Lt. General S.K. Sinha, reported 39 thousand deaths during the conflict.

Security forces committed thousands of serious human rights violations over the course of the insurgency, including extrajudicial killings, disappearances, and torture (see section 1.g.).

Human rights groups noted that police officials often refused to turn over bodies of dead suspects in cases of suspected staged encounters. The bodies of dead suspects were often cremated before their families could view them. Despite a 2002 Supreme Court order requiring the central government and local authorities to conduct regular checks on police stations to ascertain the incidence of custodial violence, most police stations failed to comply.

There were reports of deaths in custody resulting from alleged torture and other abuses. For example, in June in West Bengal, a human rights nongovernmental organization (NGO) reported that Sunil Roy was detained for allegedly being a pick-pocket and was later found dead in the police station. While police claimed he had hanged himself with his belt, the NGO claimed that, per regulations, belts were required to be removed prior to incarceration, and that Roy had other injury marks on his body.

During the year deaths in custody were common, especially for alleged insurgents. From 2002–03, the Home Ministry reported that custodial deaths increased from 1,340 in 2002 to 1,462 by the end of 2003. According to the NHRC, state governments had not investigated at least 3,575 previous deaths in custody cases.

In January the Mumbai high court sentenced 11 policemen to life imprisonment for the custodial death of Dilip Ghosale, who was beaten and killed while in police custody in 1987. In February Punjab authorities filed a case against three policemen for the custodial death of a *dalit*, a person belonging to a low caste, named Satpal. The death sparked widespread protests in the area. Also in February, the army killed two civilians in Shopian, Kashmir. The security forces claimed they were militants and buried them without a proper investigation. The district magistrate ordered the exhumation of the bodies and an inquiry, but at year's end no action was taken.

In February police killed Faisal Siddiqui in Delhi in an alleged encounter. At year's end police had not filed any charges. In March violence erupted between police and residents of east Delhi following the death of Parmeshwar Dayal, a businessman in police custody. Police claimed Dayal was kidnapped by unknown persons, later rescued by the police, and then committed suicide.

In March the Maharashtra central investigation division arrested four Mumbai police officers and charged them with the August 2004 custodial killing of Khwaja Yunus. At year's end, the four remained in police custody awaiting trial. According to media reports, Mumbai police transferred officers linked to encounter killings from the crime branch, decreasing staged encounter killings in Maharashtra state from 94 reported in 2001 to 11 in 2004.

In May Mumbai police arrested two Railway Police Protection Force (RPF) constables for the killing of railway porter Vijay Singh. After the discovery of Singh's body on the terrace of the Mumbai Central Railway Police Station, police stated there was no record of his arrest, but eye-witnesses reported seeing the two constables taking him into custody. At year's end, both constables were suspended and charges were pending.

In June Assam Rifles soldiers shot and killed Kesarjit Singh, the nephew of a minister in Manipur, after picking him up from his residence. His bullet-ridden body was found in the outskirts of Nongada village. No charge had been filed in the case.

Human rights activists reiterated during the year that there was uneven compliance with a 1993 NHRC directive requiring district magistrates to report to the commission all deaths in police and judicial custody. The NHRC had emphasized that it regarded failure to report as tantamount to a cover-up. The NHRC had not released information detailing which states had attempted to comply with the directive, but the NHRC reported that no state fully complied with this order at year's end.

Despite the purported integration of former Special Operations Group (SOG) personnel into regular police units in Jammu and Kashmir in 2003, former SOG personnel continued to operate in cohesive anti-insurgency units, and regular reports of human rights violations by its members persisted. For example, in August 2004, a unit consisting of former SOG personnel, in coordination with the Border Security Force, raided the house of Manzoor-ul Islam, a suspected insurgent, and allegedly

took him into custody. The unit reportedly killed him in an encounter the following day. No action was taken in this case and none was expected. ACHR alleged that SOG forces continued to be responsible for arbitrary killings.

Countermilitants were former separatist guerillas who surrendered but who were permitted by the Jammu and Kashmir government to retain their weapons and paramilitary structure and were inducted into police auxiliary units. Government agencies funded, exchanged intelligence with, and directed the operations of countermilitants as part of the counterinsurgency effort. During the year killings and abductions of suspected and other persons by progovernment countermilitants continued to be a significant problem in Jammu and Kashmir, although the number of such instances has declined substantially since the 1990s.

Countermilitants occasionally searched persons at roadblocks (see section 2.d.) and were present in some rural areas of the Kashmir Valley. The Jammu and Kashmir government, through its sponsoring and condoning of extrajudicial countermilitant activities, was responsible for killings, abductions, and other abuses committed by these groups. According to a human rights activist in Jammu and Kashmir, there were approximately 200 countermilitants operating in the region during the year.

Violence, often resulting in deaths, was a pervasive element in Jammu and Kashmir politics (see section 3). Separatist guerrillas and terrorists attempted to kill numerous senior politicians, making several attempts against Chief Minister Mufti Mohammed Sayeed, People's Democratic Party leader Mehbooba Sayeed, National Conference President Omar Abdullah and his father, former chief minister Farooq Abdullah, as well as many ministers and dozens of other activists in an array of political parties.

At year's end, militants and terrorists killed numerous politicians and political workers. ACHR reported that 62 political activists were killed in 2004. For example on October 18, insurgents killed the Jammu and Kashmir Education Minister Ghulam Nabi Lone and wounded secretary of the Communist Party of India-Marxist (CPI-M) Mohammed Yusuf Tarigami in Srinagar. Also in Srinagar on May 3, insurgents killed Muhammad Ramzan Mian, the chairman of the Pattan Municipal Committee in north Kashmir, and three policemen while Mian was shopping in the town market.

Countrywide, there were allegations that military and paramilitary forces engaged in abduction, torture, rape, arbitrary detention, and the extrajudicial killing of militants and noncombatant civilians, particularly in areas of insurgency (see sections 1.b., 1.c., 1.d., and 1.g.). According to human rights activists and journalists, during the year a few Naxalites (Maoist guerillas) in eastern and central parts of the country (including Madhya Pradesh, Andhra Pradesh, West Bengal, Bihar, Chhattisgarh, Jharkhand, parts of Uttar Pradesh, and Maharashtra) who surrendered were allowed to retain their weapons and worked for the police as "anti-People's War Group (PWG) officers." Human rights groups alleged that police used former Naxalites to kill current Naxalites and human rights activists with Maoist links. Police denied the charges, attributing such killings to internal feuds within the PWG. Several hundred PWG militants surrendered during the year.

During the year, there were numerous instances of abuse by insurgent and terrorist groups in both Jammu and Kashmir and the northeastern states (see section 1.g.).

b. Disappearance.—Although government complicity was not always confirmed, scores of persons disappeared in strife and insurgency-torn areas during the year.

The latest figures available from the Jammu and Kashmir government from 2003 stated that 3,931 persons had disappeared in the state since the insurgency began in 1990, compared with an APDP estimate which put the number at approximately 8 to 10 thousand. In September ACHR reported that more than six thousand cases of disappearances remain unresolved in the state. In May 2004 the government reported that many of those listed as missing by the APDP in 2003 had joined insurgent groups, had been killed, were in custody, or were in Pakistan.

On May 2, in response to a petition filed by the father of Mohammad Hussain Ashraf, a boy with mental disabilities arrested by an army patrol in Jammu and Kashmir in 2003, the high court issued a non-bailable warrant for the arrest of Pantha Chowk station house officer Ghulam Ahmed Bhat for failing to register a case against troops involved in the disappearance of Ashraf and for disregarding a court order.

In March nine years after the death of human rights lawyer Jalil Andrabi, the Jammu and Kashmir government officially closed the case without any arrests.

Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, numerous persons continued to be held by military and paramilitary forces. Human rights activists feared that many of these unacknowledged prisoners

were subjected to torture and some were killed extrajudicially (see sections 1.a. and 1.c.).

The government maintained that screening committees administered by the state governments provided information about the unacknowledged detainees to their families. Other sources indicated that families could only confirm the detention of their relatives by bribing prison guards. In February authorities released 34 former militants from custody, and in October, the Jammu and Kashmir government announced the release of 44 detainees previously held under the 1978 Public Safety Act.

The government failed to hold hundreds of police and security officials accountable for serious human rights abuses committed during the Punjab counterinsurgency of 1984–94, despite the presence of a special investigatory commission. In March prosecution lawyer and human rights activist Brinjinder Singh Sodhi claimed that he was threatened by a police officer accused in the disappearance case of human rights activist Jaswant Singh Kalara. Kalara, who claimed the government was responsible for over two thousand extrajudicial killings of Sikhs during its counterinsurgency campaign, was kidnapped in 1995, and his body was never found. On November 18, 10 years after the crime, 2 police officers, Jaspal Singh and Amarjit Singh, were found guilty of murdering Kalara and destroying evidence related to the case, and they were sentenced to life imprisonment. The courts found four other officers guilty of kidnapping with the intent to murder and sentenced them to seven years imprisonment. No action was taken against the police official who had threatened Sodhi.

During the year the Central Bureau of Investigation (CBI) claimed to be pursuing charges against dozens of police officials implicated in the 1980s for hundreds of murders and secret cremations. NGOs and Human Rights activists alleged that police in Amritsar, Majitha, and Tarn Taran districts secretly disposed of approximately two thousand bodies of suspected Sikh insurgents they had murdered. Security forces abducted, extrajudicially executed, and cremated the alleged insurgents without the knowledge or consent of their families during the height of Sikh insurgency in Punjab.

The NHRC continued to investigate 2,097 cases of illegal murder/cremation that occurred between 1984 and the early 1990s. The NHRC asked families whose members had disappeared to come forward and provide evidence. The NHRC has not released its findings, and no significant progress was made in bringing to justice those responsible for the killings. Families of victims petitioned the NHRC for redress, and a small percentage received a response in July 2004.

In July the NHRC directed the CBI to give the Punjab government access to documents regarding the illegal murder and cremation of 64 persons by the Punjab police during the insurgency.

There were credible reports that police throughout the country often failed to file legally required arrest reports, resulting in hundreds of unsolved disappearances in which relatives claimed that an individual was taken into police custody and never heard from again. Police usually denied these claims, pointing to the lack of an arrest record.

Insurgents in Jammu and Kashmir and the northeastern states continued to use kidnappings to terrorize the population, obtain the release of detained comrades, and extort funds. At the end of 2004 the government verified that few kidnappers were arrested or prosecuted. Insurgents and terrorists in Jammu and Kashmir and the northeast killed some kidnapping victims (see sections 1.a. and 1.g.). In March in Rajouri district, insurgents kidnapped Mohameed Naseeb, who was later killed during a fight between militants and security forces. Also in March, militants belonging to the insurgent group Hizbul Mujahidin killed three security force members in Srinagar.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture and generally did not allow for confessions extracted by force to be admissible in court; however, authorities often used torture during interrogations to extort money and as summary punishment.

The ACHR alleged that deaths in custody were a severe problem and that police regularly used torture. Because many alleged torture victims died in custody, and other victims were afraid to speak out, there were few firsthand accounts. Marks of torture, however, were often found on the bodies of deceased detainees. The prevalence of torture by police in detention facilities throughout the country was reflected in the number of deaths in police custody (see section 1.a.). Police and jailers typically assaulted new prisoners for money and personal articles. In addition, police commonly tortured detainees during custodial interrogation. Although police officers were subject to prosecution for such offenses, the government often failed to hold

them accountable. According to Amnesty International (AI), torture usually took place during criminal investigations and following unlawful and arbitrary arrests.

In February the Jalandhar district police tortured and killed a dalit youth when he refused to confess to theft. In May in Tamil Nadu, police arrested Mariappan, a person belonging to a lower caste, for stealing valuables from the house where he was employed. Mariappan told media that police inflicted serious injuries on him while he was in their custody.

In June two persons were killed and a dozen injured when RPF personnel fired at a mob that formed after the RPF severely beat a ticketless traveller at Dadri railway station in Uttar Pradesh. The government ordered an inquiry and awarded compensation to those injured and to the next of kin of the deceased.

In August eye-witnesses told the media that Mumbai assistant commissioner of police Arun Desai beat Taj Mohammed, a shopkeeper, on the head with a hockey stick, causing a severe head injury. Desai then arrested Mohammed for assault and the use of criminal force to deter a public servant from discharge of his duty. No action was taken against Desai.

There were incidents in which police beat journalists (see section 2.a.), demonstrators (see section 2.b.), and Muslim students (see section 2.c.). Police also committed abuses against indigenous people (see section 5).

Police used violence or the threat of violence to extort money and favors. In January Mumbai police constable Sunil Kamble beat a local shopkeeper, Roop Narayan Yadav, until he was unconscious, after Yadav asked Kamble to pay for his purchases. After an internal probe, the Mumbai police suspended Kamble, and charges were pending at year's end.

In Jammu and Kashmir, torture victims or their relatives reportedly had difficulty filing complaints, as local police allegedly were instructed not to open a case without permission from higher authorities. In addition, under the Armed Forces (Jammu and Kashmir) Special Powers Act of 1990, no "prosecution, suit, or other legal proceeding shall be instituted against any person in respect of anything done or purported to be done in exercise of the powers of the act," without the approval of the central government. The act gives security forces the authority to shoot suspected lawbreakers and those disturbing the peace, and to destroy structures suspected of harboring militants or containing weapons. Human rights organizations alleged that this provision allowed security forces to act with virtual impunity (see section 1.d.).

The rape of persons in custody was part of a broader pattern of custodial abuse. NGOs asserted that rape by police, including custodial rape, was more common than NHRC figures indicated. A higher incidence of abuse appeared credible, given other evidence of abusive behavior by police, and the likelihood that many rapes went unreported due to the victims' shame and fear of retribution. However, legal limits placed on the arrest, search, and police custody of women appeared to reduce the frequency of rape in custody. There were no recent NHRC data on the extent of custodial rape.

In February a soldier with the Tripura State Rifles raped a minor girl in West Tripura district. Public outrage led to his arrest.

According to 2002 records from the National Crime Records Bureau (NCRB), the latest available, courts tried 132 policemen for custodial rape, but only 4 were convicted. The Ministry of Defense reported that it filed 17 rape cases and 10 murder cases against army personnel from 2003–2004. To date, one rape case and five murder cases ended in guilty verdicts. In the remaining cases, the investigations remained ongoing or the charges were proved false.

In January a report prepared by retired judge Chanambam Upendra Singh found 2 members of the 12th grenadiers army unit guilty of raping 15-year-old Nandeibam Sanjita Devi in Manipur in 2003. Devi committed suicide after recounting her ordeal to her mother.

In February an Assam Rifles constable allegedly raped a 12-year-old girl in the Karbi Anglong district of Assam, sparking widespread protests from various women's organizations. Medical examination confirmed the rape, and a case was filed against the constable. Police arrested the soldier and the two women who assisted in the rape, and all three were in custody at year's end.

In September authorities charged two members of the Bihar police with the custodial rape of a 35-year-old widow who was detained on a murder charge. The court ordered an inquiry in the case, which remained ongoing at year's end.

There was a pattern of rape by paramilitary personnel in Jammu and Kashmir and the northeast as a means of instilling fear among non-combatants in insurgency-affected areas (see section 1.g.), but these incidents were not included in NHRC statistics, as the NHRC does not have direct investigative authority over the military.

A Major Rehman was dismissed in January from military service after being convicted by a court martial for his involvement in the November 2004 rape of a mother and daughter during a search operation near Handwara in Kashmir. Also in January, the army dismissed a rifleman from service after a court martial convicted him of molestation of an elderly woman in Pahalgam.

In July 2004 the National Commission for Women (NCW) directed all mental hospitals to check the legitimacy of insanity certificates after receiving reports of husbands falsely committing their wives to obtain divorces. The NCW issued the edict after authorities accused a resident psychiatrist at the Agra Mental Asylum of issuing false insanity certificates for this purpose. On July 23, the Agra police arrested the doctor, who remained in judicial custody at year's end.

In 2004 the government gave the NHRC the authority to recommend interim compensation in cases relating to human rights abuses by the armed forces. Officers of the rank of colonel were designated at the command, corps, division and counter-insurgency headquarters to monitor human rights issues. Under the guidelines, the NHRC cannot charge a member of the armed forces of a human rights abuse without government permission. The NHRC reported a continued decline in reported human rights abuses by the military, with 16 cases reported in 2003, and only 4 in 2004. The NHRC reported that it registered 756 cases against the military, 172 against paramilitary forces, and 109,902 against the police since 2001.

Prison and Detention Center Conditions.—Prison conditions were harsh, life-threatening, and did not meet international standards. Prisons were severely overcrowded, and food and medical care inadequate. For example, the Mumbai-based Criminal Justice Initiative reported that there were three thousand inmates in Bombay Central Jail, which has an actual capacity of 800. Human rights organizations reported that 60 to 75 percent of all detainees were in jail awaiting trial, drastically contributing to overcrowding. They also asserted that approximately 65 percent of those detained were found innocent. Due to persistent inefficiencies in the judicial system, there were numerous instances in which detainees spent more time in jail under pretrial detention than they would have if found guilty and sentenced to the longest possible term (see section 1.d.).

In June 77-year-old Machang Lalung was released after spending 54 years in jail without a trial. Lalung was arrested in 1951 from Silsilang in Assam for "causing grievous hurt," a crime which carries a maximum of 10 years' imprisonment. Shortly after his arrest, according to human rights activists, police withdrew the charges against him due to a lack of evidence, and transferred him to a psychiatric institution, and then forgot him. In 1967, the authorities at the institution certified Mr. Lalung as "fully fit" and said he should be released. Instead of releasing Lalung, police transferred him to another jail, once again without trial. Lalung was released only after human rights activists learned of his case, brought it to the attention of the NHRC, and paid a personal bond of two cents (one rupee). Magistrate HK Sarma, who released Mr. Lalung, stated "Neither the executive nor the judiciary avoid responsibility for Machang Lalung's detention for so long on the grounds of mere procedure or technicalities."

The case of Machang Lalung was the most egregious case out of five of the lengthiest cases of prisoners held without trial for extended periods. The others were: Khalilur Rehman, incarcerated for 35 years; Anil Kumar Burman, incarcerated for 33 years; Sonamani Deb, incarcerated for 32 years; and Parbati Mallik, incarcerated for 32 years.

The NHRC subsequently requested Assamese authorities to submit reports on five other pretrial prisoners presently detained at the LGB Regional Institute of Mental Health in Tezpur, Assam.

As of July, the 8 central prisons, including Tihar Jail and the Rohini district jail in Delhi, had an official capacity of 5,648, but held 13,160 prisoners.

According to one NHRC report, a large proportion of the deaths in judicial custody were from natural causes, in some cases aggravated by poor prison conditions (see section 1.a.). Tuberculosis caused many deaths, as did HIV/AIDS. The NHRC assigned its special rapporteur and chief coordinator of custodial justice to ensure that state prison authorities performed medical check-ups on all inmates. By year's end, only a few examinations had been performed.

By law juveniles must be detained in rehabilitative facilities, although at times they were detained in prison, especially in rural areas. Pretrial detainees were not separated from convicted prisoners.

During the year custodial deaths at the hands of police continued. In September the Assam Human Rights Commission asked the state government to take appropriate action against jail authorities for failing to properly treat Mithinga Daimary and Ramu Mech, United Liberation Front of Assam (ULFA) leaders who were ill while awaiting trial. Mech was subsequently taken to Delhi for treatment. In Au-

gust in Tezpur, ULFA Chief Advisor Robin Handique died in detention after he was allegedly denied proper medical care. An inquiry was pending at year's end.

In June 2004 the Delhi High Court found several police officers guilty in the custodial death of an auto-rickshaw driver, and fined them each approximately \$11 thousand (Rs. 530 thousand).

While local authorities often attempted to hide custodial killings, the NHRC and the courts investigated those cases brought to their attention and prosecuted some perpetrators. In most cases, the courts awarded monetary compensation of between \$400 (Rs. 17,500) and \$2,200 (Rs. 96 thousand) to the next of kin. NGO sources stated that relatives often had to pay bribes to receive the compensation awarded, and in many cases never received it at all.

Some NGOs were allowed to work in prisons, within specific governmental guidelines, but their findings remained largely confidential as a result of agreements made with the government. Although custodial abuse was deeply rooted in police practices, increased press reporting and parliamentary questioning provided evidence of growing public awareness of the problem. The NHRC identified torture and deaths in detention as one of its priority concerns.

According to the Home Ministry's 2004 annual report, the International Committee of the Red Cross (ICRC) visited 55 detention centers and over 7 thousand detainees during the year, including all acknowledged detention centers in Jammu and Kashmir, and all facilities where Kashmiris were held elsewhere in the country. During the year the ICRC visited 28 places of detention in Jammu and Kashmir and found that 1,356 persons were detained—524 of them newly registered. The ICRC was not authorized to visit interrogation or transit centers, nor did it have access to regular detention centers in the northeastern states (see sections 1.c. and 4). During the year the ICRC stated that it continued to encounter difficulties in maintaining regular access to persons detained in Jammu and Kashmir.

In a report issued in January 2004 the UN Special Rapporteur on Torture commented that torture and detentions continued in the country, especially in Jammu and Kashmir, and noted the government's continued refusal to extend him an invitation to conduct investigations. A report published during the year of the Special Rapporteur Civil and Political Rights, listed cases of torture by the government. It noted that in June 2004 police beat Gulzar Ahmed Daded of Sangerwani, Pulwama District, Kashmir, until he was unconscious because he protested against a death in custody. Daded was taken to a hospital in Srinagar, where he died in July 2004. It also reported that in March 2004, police used excessive force during a march held by the APDP in Srinagar, Jammu and Kashmir. The police dispersed the march and hit participants with canes, dragged women by their hair, beat them and ripped off their clothes. Police arrested several APDP members, human rights activists, as well as family and friends of the disappeared and took them into police custody for unlawful assembly and assault of police officers; they were released on bail after seven hours.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, but both occurred during the year.

Role of the Police and Security Apparatus.—Although the 28 state governments have primary responsibility for maintaining law and order, the central government provides guidance and support. The Ministry for Home Affairs controls most paramilitary forces, the internal intelligence bureaus, and the nationwide police service, and provides training for senior police officers of the state-organized police forces. The civilian authorities maintained effective control of the security forces. Members of the security forces committed numerous serious human rights abuses.

Corruption in the police force was commonplace and severely diminished its effectiveness. Officers at all levels acted with relative impunity and were rarely held accountable for illegal actions. When an officer was found guilty of a crime, the most common punishment was transfer to a different position or post. Human rights activists and NGOs reported that bribery was often necessary to receive police services.

For example on November 3, the NDTV news channel caught Delhi Police Inspector Satya Raj demanding \$600 (Rs. 26 thousand) from a dead man's family for return of his body. At year's end, police had not filed charges against Raj.

Corruption in the police force led to cases of illegal and arbitrary arrest during the year. For example in January, authorities in Mumbai suspended five police officers for planting evidence and framing a merchant in October 2004. The merchant was wrongfully made to spend five months in pretrial detention. At year's end, charges against the officers were pending.

In April two scrap dealers, Sadaf Nazar Khan and Azaz Khan complained to Mumbai police that a police inspector kidnapped them, illegally detained them,

robbed them of approximately \$2,800 (Rs. 120 thousand), and asked for further payment from relatives for their release. The Mumbai police suspended the inspector and two other police officers, and at year's end, an inquiry was ongoing.

In July authorities arrested B.B. Patre, a senior superintendent of police in Maharashtra, for threatening a Dhule city kerosene dealer with arrest if Patre was not paid a \$23 thousand (Rs. 1 million) bribe.

NGOs and human rights activists alleged that police often committed human rights violations with impunity and that police corruption was pervasive and acknowledged by many government officials. The NHRC reported that the majority of complaints it received were against police. Although the Malimath Committee on Judicial Reform issued a report in 2003 proposing police reforms, measures had not been implemented at year's end. Some human rights activists maintained that the committee's main goal was to increase arrests and prosecutions instead of protecting the rights of the accused. Punjab Director General of Police A.A. Siddiqui reported that police had received 17 thousand complaints in 2004, including 6,261 from the Punjab State Human Rights Commission, 376 from the NHRC, and 46 from the NHRC for Scheduled Castes and Scheduled Tribes. The media reported that courts found 59 police officers guilty of violating human rights in Punjab in 2004.

Arrest and Detention.—The law requires that detainees be informed of the grounds for their arrest, be represented by legal counsel, and, unless held under a preventive detention law, arraigned within 24 hours of arrest, at which time the accused must either be remanded for further investigation or released. However, thousands of criminal suspects remained in detention without charge during the year, adding to already over-crowded prisons.

The law provides arrested persons the right to be released on bail, and prompt access to a lawyer; however, those arrested under special security legislation received neither bail nor prompt access to a lawyer in most cases. Court approval of a bail application is mandatory if police do not file charges within 60 to 90 days of arrest. In most cases, bail was set between \$11 (Rs. 500) and \$4,500 (Rs. 200 thousand).

In September 2004 the government repealed the Prevention of Terrorism Act (POTA) and replaced it with the Unlawful Activities Prevention Act (UAPA). Nonetheless, SAHRDC reported that more than 1,000 persons remained in detention awaiting prosecution under lapsed special terrorism legislation, and that cases opened under POTA and Terrorism and Disruptive Activities Act (TADA) continued through the judicial system. On November 8, the Supreme Court acquitted two men, Daljit Singh Bittoo and Gursharan Singh Gama, previously sentenced to life imprisonment under TADA in June 2004. The defense argued successfully that the deputy superintendent of police had a personal vendetta against the two men and used TADA to imprison them.

TADA courts curtailed many legal protections provided by other courts. For example, defense counsel was not permitted to see prosecution witnesses, who were kept behind screens while testifying in court, and confessions extracted under duress were admissible as evidence (see section 1.c.).

POTA contained a sunset feature, which gave the central POTA review committee one year to review all existing POTA cases. The government established three central review committees to review the cases registered under POTA. The committees were required to review all cases registered under POTA by September 20, but at year's end, numerous cases remained unreviewed. This clause also allowed the government to make new arrests under POTA, despite its repeal, if the arrests were tied to an existing POTA case. The government could issue a new indictment on a case opened five years earlier under POTA, even if the government was never associated with the case. It can also extend the one-year limit for reviews; however, at year's end, it had not done so. The law provides that the review committees constituted by the government shall review all cases registered under POTA by September 20. In June the POTA review committee reported that there were 11,384 persons wrongfully charged under POTA who instead should be charged under the regular law.

UAPA and POTA continued to be used to hold people in jail for extended periods prior to the filing of formal charges. Human rights groups reported that the revised UAPA contained important improvements over the POTA. For example, it does not allow coerced confessions to be admitted as evidence in court.

In February the NHRC announced comprehensive guidelines regarding arrest, which included establishing reasonable belief of guilt; avoiding detention if bail is an option; protecting the dignity of those arrested; not allowing public display or parading, and allowing access to a lawyer during interrogation. Police often ignored these guidelines.

In June Daljit Singh Bittu, president of the Shiromani Dal Khalsa, a group that supported a separate Sikh state, and an associate were sentenced to life imprisonment by a special TADA court for the killing of Ashok Bedi, son of a former police officer, in June 1986.

In September Simranjit Singh Mann, president of the Shiromani Akali Dal (Mann), was released from the Ludhiana central jail after 78 days in prison. He had been arrested for making pro-Khalistan statements in Sangrur, Punjab. Human rights activist and lawyer Ranjan Lakhanpal alleged that Punjab police beat and tortured Mann while in custody.

At year's end the Bihar government did not respond to a September 2004 petition urging the withdrawal of all TADA cases filed against landless laborers.

Police routinely resorted to arbitrary and incommunicado detention, denied detainees access to lawyers and medical attention, and used torture or ill treatment to extract confessions (see section 5.). Human rights experts claimed that discrimination and custodial torture of those too poor to afford legal assistance was common. During the year the media reported that lower caste individuals were more likely to be illegally detained than others. Human rights activists maintained that the government increasingly avoided prosecuting security officers involved in illegal conduct, by providing financial compensation to victims' families in lieu of punishment. In some instances victims or their families who distrusted the military judicial system petitioned to have their cases transferred to a civil court. The NHRC has no jurisdiction over any courts, including military courts.

During the year the media reported that 217 Muslims arrested in connection with the 2002 Tiffin bomb case, the 2003 killing of former Gujarat chief minister Haren Pandya, the 2003 Akshardham temple bombing, and the 2002 Godhra train arson case, remained in custody in Gujarat under POTA. On June 29, a special POTA court dismissed POTA charges related to the 2002 Tiffin Bomb case against Munawar Beg Mirza; however, he continued to be an accused in the same case under the penal code. In June the POTA review committee recommended that 131 of the Godhra accused not be charged under POTA. The Gujarat government rejected the recommendation, contending that there was clear evidence of conspiracy in the train arson.

Throughout the year authorities in Jammu and Kashmir repeatedly detained Kashmiri separatist leaders such as Shabir Shah, Chairman of the Jammu and Kashmir Democratic Freedom Party, Yasin Malik, Chairman of the Jammu and Kashmir Liberation Front (JKLF), and Syed Ali Shah Geelani, Chairman of the hardline faction of the All Parties Hurriyat Conference (APHC), for short periods of time ranging from several hours to one day, usually to prevent their participation in demonstrations, funerals, or other public events. For example in January, Mohammed Yasin Malik and Shabir Ahmed Shah were among 30 people detained in Baramuula while participating in a demonstration against civic elections. They were released later in the day.

There were several incidents during the year in which Tamil Nadu police arrested activists and demonstrators without a proper warrant. In September according to media reports, Chennai police arrested over three thousand activists belonging to the Communist Party of India (Marxist), including a state unit secretary and other legislators.

In September the Madras High Court ordered the Tamil Nadu chief of police to investigate the illegal detention and custodial torture of four persons allegedly taken into custody to pressure an associate to withdraw a writ petition against the state government. The high court judge granted bail to the four on September 14.

In August 2004 the home minister informed parliament that the POTA review committee had received 262 complaints during the year. Of these, the committee ruled in favor of the accused in 18 cases, rejected 33 complaints, and disposed of 10 for unspecified reasons. The remaining 201 remained pending at year's end.

The National Security Act (NSA) permits police to detain persons considered security risks anywhere in the country—except for Jammu and Kashmir—without charge or trial for as long as one year on loosely defined security reasons. State governments must confirm the detention order, which was reviewed by an advisory board of three high court judges within seven weeks of the arrest. NSA detainees were permitted visits by family members and lawyers, and must be informed of the grounds of their detention within 5 days (10 to 15 days in exceptional circumstances). According to press accounts, 32 persons were detained under the NSA in 2004.

Human rights groups alleged that the NSA allowed authorities to order preventive detention at their own behest after only a cursory review by an advisory board, and that no court would overturn such a decision.

The Public Safety Act (PSA), which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge and judicial review for up to two years. During this time, detainees do not have access to family members or legal counsel. Between March and April, the PSA was invoked against 12 persons. The government estimated that approximately 600 persons were in custody under the PSA or related charges in January. In April two Kashmiri separatist leaders, Shabir Ahmad Khan and Firdous Ahmad Shah, were released after several months' detention under the PSA.

In September the government used the PSA to arrest Sayeda Assiya Andrabi, the head of the all-female Dukhtaran-e-Millat, and eight of her associates for her campaign against adultery, prostitution, and drug addiction. At year's end, she remained in pretrial detention.

During the year the Jammu and Kashmir government released 326 persons held under PSA since 2002.

In May according to press reports, two Maoist support organizations, the All India Peoples Resistance Forum (AIPRF) and the Struggling Forum for Peoples Resistance (SFPR), claimed the West Bengal state government illegally detained Maoist activists Sushil Roy and Patit Paban Haldar. The Maoist support organizations alleged that police arrested the 2 men on May 21 but did not produce them in court until 3 days later, violating their right to a court appearance within 24 hours after arrest. According to the two groups, over 700 suspected Maoists have been detained without charge during the year.

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 AFSPA, the government can declare any state or union territory a "disturbed area." This allows the security forces to fire on any person in order to "maintain law and order" and to arrest any person "against whom reasonable suspicion exists" without informing the detainee of the grounds for arrest. Security forces are also granted immunity from prosecution for acts committed under AFSPA.

In February the Tis Hazari Court in New Delhi dropped a case filed under the Official Secrets Act (OSA) against 8 people booked 14 years ago for allegedly stealing classified papers from a government press in Ranchi, Bihar. The press also reported that 28 people remained in Delhi's Tihar jail under the OSA, and that some of their cases have been in the courts for 15 years.

In June a committee created by the Home Ministry to review AFSPA submitted its report, and its recommendations were under review at year's end. Press reports indicated that the review committee recommended the repeal of AFSPA and suggested the incorporation of its provisions into the UAPA.

The law provides a person in detention the right to a prompt trial; however, due to a severe backlog, this was not the case in practice.

There were no reports of political detainees during the year, although the government detained hundreds of suspected terrorists, insurgents, and separatists. In November the government released 44 of these detainees following a meeting between the prime minister and leaders of the APHC in New Delhi.

As a result of severe overloading of the courts, thousands of persons awaiting trial spent longer in prison than the maximum sentences for the crimes for which they were charged. In July 2004 the Ministry of Law and Justice reported that there were 29,622 cases pending before the Supreme Court, and 3,269,224 before the state high courts. The NHRC reported in 2004 that 75 percent of the country's inmates, some 217,659 persons, were in pretrial detention. Human rights groups claimed that because of the extensive case backlog and rampant corruption the judicial system no longer met its constitutional mandate.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the government generally respected this provision in practice; however, serious problems remained. In Jammu and Kashmir, members of the judiciary were subject to threats and intimidation by insurgents and terrorists.

The judicial system is headed by a Supreme Court, which has jurisdiction over constitutional issues, and includes the court of appeals and lower courts. Lower courts hear criminal and civil cases and send appeals to the court of appeals. The president appoints judges, who may serve until the age of 62 on state high courts and 65 on the Supreme Court.

Trial Procedures.—The criminal procedure code provides that trials be conducted publicly, except in proceedings involving official secrets, trials in which statements prejudicial to the safety of the state might be made, or under provisions of special security legislation. Sentences must be announced publicly, and defendants have the right to choose counsel independent of the government. There are effective channels for appeal at most levels of the judicial system, and the state provides free legal

counsel to indigent defendants. Defendants were allowed access to relevant government-held evidence in most civil and criminal cases; however, the government had the right to withhold information and did so in cases it considered sensitive. In 2003 the Delhi High Court issued new witness protection guidelines to reduce the number of witnesses who recanted their testimony under threat from defendants.

There was continued concern about the failure of the Gujarat government to arrest and convict those responsible for the widespread communal violence in 2002 following the burning in Godhra of the S-6 coach of the Sabarmati Express train, in which 59 men, women, and children died. In the days following the train burning, Hindu mobs killed hundreds of Muslims, displaced tens of thousands, and destroyed property.

In many cases, attempts to hold perpetrators of the Gujarat violence accountable were hampered by the allegedly defective manner in which police recorded complaints. Victims related that police refused to register their complaints, recorded the details in such a way as to lead to lesser charges, omitted the names of prominent people involved in attacks, and did not arrest suspects, particularly supporters of the Bharatiya Janata Party (BJP). According to an affidavit submitted to the Supreme Court in January 2004 by the Gujarat government, of 4,252 complaints filed, 2,032 were closed without action, even though abuses were substantiated. In August 2004 the Supreme Court instructed the Gujarat High Court to appoint a committee of high-level police officials to re-examine the 2,032 closed cases and determine whether any should be reopened. The media reported that officials attempting to conduct a serious investigation into the incidents were promptly removed from the case. At year's end, no report specifying the number of cases that should be reopened had been submitted to the Supreme Court.

The Gujarat government claimed that police had re-opened investigations against 5,384 people in the city of Ahmedabad and 24,683 people in the state as a whole. However, analysis by the Islamic Relief Committee of Gujarat revealed that only a small number of these investigations actually led to convictions. As of May there were only 2 convictions out of 217 cases concluded in the lower courts of Gujarat. The Gujarat government's legal department advised against appealing most of the acquittals in the remaining cases. As a result, only a handful of cases were appealed to higher courts. On December 14, the Godhra fast-track court sentenced 11 persons to life imprisonment for killing 11 members of a minority community in Panchmahal district of Gujarat.

At year's end, the special court in Mumbai had not ruled in the Best Bakery case. Human Rights Watch (HRW) reported that Hindu extremists threatened and intimidated victims, witnesses, and human rights activists attempting to prosecute those who committed crimes during the 2002 Gujarat riots. It asserted that instead of pursuing the perpetrators of violence, the Gujarat government nurtured a climate of fear. The report alleged that the Gujarat government launched selective tax probes against some Islamic organizations to pressure Muslim witnesses to withdraw murder and arson charges against Hindu nationalists. The Gujarat government denied the charge.

According to the Home Ministry, as of March there were 1,700 fast track courts in the country. Fast track courts concentrated on a specific type of case, allowing judges to develop expertise in a given area of law. These courts gave preference to cases pending for extended periods and often focused on civil issues. Court fees were generally lower for these courts, since the trials were shorter.

The government does not interfere in the personal status laws of minority communities, including those laws that discriminate against women. There are separate laws for Muslims and Hindus on a number of issues. For example, Muslim personal status law governs family law, inheritance, and divorce (see section 5, Women).

Unlike in previous years, court was regularly in session and the judicial system began to normalize in Jammu and Kashmir. Nevertheless, the judicial system was hindered because of judicial tolerance of the government's anti-insurgent actions and because of the frequent refusal by security forces to obey court orders.

Due in part to intimidation by militants and terrorists, courts in Jammu and Kashmir were often reluctant to hear cases involving insurgent and terrorist crimes and failed to act expeditiously, if at all, on habeas corpus cases. In March 2004, Jammu and Kashmir Chief Minister Mufti Mohammad Sayeed announced that there were 533 persons of unidentified ethnicity, 361 Kashmiris, and 172 foreigners in custody. During the year, the government released 85 detainees.

Political Prisoners.—While the government maintained that there were no political prisoners, the APHC claimed there were approximately 500 political prisoners in Jammu and Kashmir, and human rights activists based in the state placed the number at 150, although among these were persons whom the government claimed had engaged in violent acts.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such actions, and the government generally respected these prohibitions in practice; however, at times the authorities infringed upon them. Police must obtain warrants to conduct searches and seizures, except in cases where such actions would cause undue delay. Police must justify such warrantless searches in writing to the nearest magistrate with jurisdiction over the offense. The authorities in Jammu and Kashmir, Punjab, and Assam have special powers to search and arrest without a warrant.

The Information Technology Act grants police power 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 (see section 2.a.). The act also requires Internet cafes to monitor Internet use and inform the authorities of offenses (see section 2.a.).

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 every state government used these powers during the year.

Although the telegraph act gives police the power to tap phones to aid an investigation, they were not allowed to use such evidence in court. The UAPA allows such evidence to be used in terrorist cases, and some human rights activists noted that the new UAPA ordinance confers additional powers on police to use intercepted communications as evidence in terrorism cases. While there were elaborate legal safeguards to prevent police from encroaching on personal privacy, there were no such protections in terrorist cases.

Eight states (Andhra Pradesh, Rajasthan, Orissa, Haryana, Chhattisgarh, Madhya Pradesh, Himachal Pradesh, and Maharashtra) have enacted two-child laws for village council members. The laws provide government jobs and subsidies to those who have no more than two children and sanctions against those who do. For example, in 2004 village council members in Chhattisgarh who violated this prohibition reportedly were dismissed from their positions. National health officials in New Delhi noted that the central government was unable to regulate state decisions on population issues.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Security force personnel enjoyed extraordinary powers under the Jammu and Kashmir Disturbed Areas Act and the Armed Forces (Jammu and Kashmir) Special Powers Act, which includes the authority to shoot suspected lawbreakers on sight and destroy structures suspected of harboring insurgents or arms.

There were continuing reports of civilians killed in crossfires in Jammu and Kashmir during the year. In February two insurgents attacked the divisional commissioner’s office in Srinagar, killing five. Both insurgents were killed after a four-hour gun battle. On November 2, militants in Srinagar killed 10 people and wounded 15 others in a car bomb attack. On November 14, also in Srinagar, insurgents killed three bystanders during an attack on a police vehicle.

In January Jammu and Kashmir Finance and Law Minister Muzaffar Hussain Beig escaped a militant attack while attending an election rally in Baramulla, north Kashmir. Also in January, militants attacked People’s Democratic Party (PDP) President Mehbooba Mufti and Urban Development Minister Ghulam Hassan Mir while they were campaigning in Khalilpora. Insurgents killed six persons and injured three dozen in pre-election related violence.

Terrorists and militants operating in Rajouri, Poonch, Udhampur, and Doda areas of Jammu and Kashmir repeatedly targeted the minority Hindu community, stabbing and killing entire families at a time in numerous incidents throughout the year. For example on July 29, insurgents stabbed and killed a Hindu woman and five Hindu men in Jammu and Kashmir’s Rajouri district after segregating them from Muslims in the village. On August 27, in two separate attacks, insurgents killed five members of a family in Mehrot and two Hindu priests at a temple in Dundak, Poonch district.

Civic elections were held in February in Jammu and Kashmir. Despite threats and boycott calls, polling was largely peaceful, and the army and police presence was not overbearing. After the declaration of results, terrorists killed two newly elected members and several of their relatives and friends. Several elected counselors resigned following threats from terrorists. Insurgents killed an official in Kulgam, a National Conference counselor in Ikhrajpora, and a PDP counselor in Beerwah, Budgam district.

Members of the security forces continued to abduct and kill suspected insurgents, and security forces were not held adequately accountable for their actions. Reliable data on such cases were difficult to obtain.

According to credible reports, in addition to harassment during searches and arbitrary arrests (see section 1.d.), security forces abducted and sometimes used civilians as human shields and while clearing minefields. Such abuses occurred mostly in the Kupwara and Doda districts. On January 25, nine civilians were killed when an army team opened fire on a remote area of Assam's Kamrup district, which they believed was an insurgent hideout.

Unlike in previous years, tension along the Line of Control (LOC) in Kashmir was minimal. The Home Ministry reported no cases of artillery shelling, mortar, or small arms fire across the LOC or on the Siachen glacier during the year.

During the year insurgents and terrorists committed political killings, kidnappings, and rapes of politicians and civilians (see sections 1.a., 1.b., and 1.c.), engaged in extortion, and carried out acts of random terror that killed hundreds of Kashmiris. In May Attiqullah Shan, nephew of Jammu and Kashmir Chief Minister Mufti Mohammed Sayeed, was shot and killed in Anantnag district. No group claimed responsibility for the attack. Killings of security force members by insurgents and terrorists in Jammu and Kashmir declined to 330 for the year, according to home ministry statistics. As of August 15, the Jammu and Kashmir police claimed fighting in Kashmir had resulted in the deaths of 167 security forces, 359 civilians, and 622 insurgents.

In January in Srinagar, a 25-hour gun battle between insurgents and security forces in the passport office complex resulted in the deaths of two security officers and two insurgents and the wounding of eight security personnel.

In March in Rajouri district, insurgents kidnapped a civilian who was later killed in a crossfire between security forces and the insurgents.

In April insurgents attacked the tourist reception center complex in Srinagar. Both insurgents were killed in the subsequent gun battle, and seven government employees were injured.

In Manipur an insurgency involving up to 19 militant groups resulted in the deaths of 133 civilians, 46 security forces, and 135 insurgents, according to the South Asia Terrorism Portal. For example, on January 26, suspected United National Liberation Front members triggered two explosions in the Chandrapur village of Imphal, injuring seven persons, including two security force members. On February 17, separatists killed five Assam Rifles personnel and injured two others in an ambush at Kumbi in the Bishnupur district. In a separate attack the next day, insurgents attacked a senior police officer but wounded his escort. On July 10, People's Liberation Army members detonated a bomb, killing three Assam Rifles personnel and wounding seven persons, including two civilians in the Waitout area of Thoubal district in Assam.

According to SATP.org, separatists in Nagaland killed nine civilians during the year. Human rights groups observed that violence persisted despite ongoing talks between separatist groups and state government officials and an April 2004 government ceasefire. Factional violence between the National Socialist Council of Nagaland Isak-Muivah (NSCN-IM) and the National Socialist Council of Nagaland Khaplang (NSCN-K) continued during the year, resulting in numerous deaths. For example, NSCN-K members killed two NSCN-IM cadres in a February 25 attack at the Athibung area of Peren district. On March 12, NSCN-IM cadres attacked the Cease Fire Supervisory Board office of the NSCN-K located in Mon town, killing one NSCN-K cadre and wounding two others. On June 28, an elderly woman and two insurgents reportedly were injured in a factional clash between NSCN-IM and NSCN-K militants in the Athibung area of Peren district.

In July according to the home ministry, government representatives and NSCN-IM leaders met in Amsterdam and agreed to extend the ceasefire for six months starting in August. The government and NSCN-IM held meetings in December to negotiate another extension.

Insurgent groups in the Northeast continued to attack civilians. In April a group based in Manipur, called the People's Revolutionary Party of Kangleipak, executed the parents of two of its members who had surrendered, and seriously wounded the mother of a third. On August 7, ULFA insurgents detonated a bomb at a bus station in Boko, Assam, killing four persons and wounding three others. The insurgents also attacked oil pipelines in the districts of Sibsagar, Dibrugarh and Tinsukia. In September eight people were killed and several wounded when Kuki Revolutionary Army rebels fired on villagers in Karbi Anglong district, Assam.

The killing of civilians by Naxalites (Maoist insurgents) in Andhra Pradesh increased dramatically during the year. According to Andhra Pradesh police, Naxalites killed 123 civilians including political leaders, and 16 policemen between January and July. Police killed 84 Naxalites during the same period.

In March Maoist rebels killed eight persons in Kurnool, Andhra Pradesh. After the Naxalites shot and killed Congress legislator Chittam Narsi Reddy in

Mahbubnagar district on August 15, the state government imposed a ban on the Communist Party of India (Maoist) and seven Naxalite front organizations. After the ban, police arrested Vara Vara Rao, who had acted as the Communist Party of India (CPI) emissary in earlier peace talks. Human rights activists claimed that the escalation in violence began in January when police shot and killed three Naxalites in Prakasan district. Reports of encounter killings were highest in Nizamabad district, where police shot and killed nine Naxalites. In September Maoists guerrillas killed 10 persons in a midnight attack in the Ranchi area of Jharkhand. According to SATP, on September 12, cadres of the CPI–M killed 17 civilians at Belwadari village in the Giridih district, Jharkhand. An estimated 510 persons, including 210 policemen, have been killed in the last five years in Maoist/Naxalite violence according to the Indo-Asian News Service.

Insurgents also targeted government officials. On February 13, insurgents ambushed an advance security party of the Manipur chief minister, Okram Ibobi Singh, at Oksu, 8 miles from Imphal; however, no loss of life or injuries were reported. On February 17, insurgents injured three police officers at Naran Sena village. On May 26, ULFA insurgents killed Congress party official Amrit Dutta in Jorhat district of Assam.

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, with some limitations. Under the Official Secrets Act, the government may restrict publication of sensitive stories or suppress criticism of its policies, but no cases of government suppression were reported during the year.

Designed to be a self-regulating mechanism for the press, the Press Council is a statutory body of journalists, publishers, academics, and politicians, with a government-appointed chairman, that investigates complaints of irresponsible journalism and sets a code of conduct for publishers. This code includes a commitment not to publish stories that might incite caste or communal violence. The council publicly criticized newspapers or journalists it believed had broken the code of conduct, but its findings carried no legal weight.

A vigorous press reflected a wide variety of political, social, and economic beliefs. Independent newspapers and magazines regularly published and television channels regularly broadcast investigative reports including allegations of government wrongdoing, and the press generally promoted human rights and criticized perceived government lapses. Most print media were privately owned. In the electronic media, 80 percent of the television channels were privately owned. The law does not permit privately owned radio stations to broadcast news, leaving only government-controlled radio stations free to report news over the radio.

With the exception of radio, foreign media was, for the most part, allowed to operate freely, and private satellite television was distributed widely by cable or satellite dish, providing serious competition for Doordarshan, the government-owned television network. While government television frequently was accused of manipulating the news in the government's favor, some privately owned satellite channels often promoted the platforms of political parties their owners supported.

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 only authorized entertainment and educational content. In June the government formally cleared the domestic publication of foreign newspapers and periodicals, including the *International Herald Tribune*, although imported copies of such periodicals had been freely available for years. However, local editions of foreign press were still prohibited: country-specific editions were required to be published by a local company to comply with foreign direct investment regulations that stipulated a ceiling of 26 percent for news organizations.

The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with separatist leaders and filed reports on a range of issues, including government abuses. In October 2004 the government permitted the first delegation, in more than 50 years, of Pakistani journalists to visit Jammu and Kashmir. The correspondents, on a trip sponsored by the South Asia Free Media Association, had access to the entire spectrum of government and separatist opinion.

The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir. Under the act, a district magistrate may prohibit the publication of material likely to incite murder or any act of violence; however, newspapers in Srinagar

reported in detail on alleged human rights abuses by the government and regularly published separatist Kashmiri groups' press releases.

There were no developments in the September 2004 arrest under the Official Secrets Act of a photojournalist with an Urdu newspaper in Srinagar for passing sensitive defense-related material to Pakistan.

No action was taken against the assailants who in June 2004 attacked the Mumbai office of *Aapla Mahanagar* or against those responsible for attacking newspaper editor Sajid Rashid in August 2004.

In July the Committee to Protect Journalists reported that government agents harassed and threatened *South Asia Tribune* correspondent Arun Kumar Rajnath. On July 27, the *Tribune* detailed a series of intimidating phone calls and emails Rajnath received over the previous two months. The caller, identified as an intelligence agent, allegedly offered Rajnath kickbacks in return for publishing articles unfavorable to neighboring countries.

In August Punjab police arrested *Indian Express* correspondent Gautam Dheer. The police failed to inform him of the charge, denied him access to a lawyer, and withheld information about his whereabouts. Police arrested Dheer while he was investigating alleged malfeasance by the inspector general of police, Sumedh Singh Saini. The chief minister of Punjab, Amrinder Singh, ordered Dheer's release on bail and began a probe against the special investigating team that arrested him. Lawyers for Human Rights International petitioned the NHRC, demanding a probe into the arrest, but at year's end, the NHRC had not taken up the case.

In September Reporters Without Borders claimed there was increased violence against the media, and systematic attacks on the freedom of the press during the year. The organization reported that most attacks took place in the northern part of the country. For example, on August 26, individuals attacked Shikha Das, a reporter in Chhattisgarh. Her attackers allegedly were members of a regionally prominent family, which Das had linked to trafficking in persons. The police initially refused to register her complaint and did so only after a delegation of local journalists went to the police station.

No arrests were made in the August 2004 attack against the offices of *Dinamalar* by members of the Pattali Makkal Katchi.

Violent intimidation of the press by militant and terrorist groups in Jammu and Kashmir caused significant self-censorship, according to journalists based in the state. During the year the threat of losing government revenue contributed to self-censorship by smaller media outlets that relied heavily on state government advertising for their survival.

In June the Shillong Press Corps in Meghalaya protested the harassment of journalists by police and the Meghalaya government. According to the press, on June 10, a group of plain-clothed policemen visited the office of *The Meghalaya Guardian* and interrogated senior journalists about a news item alleging that security forces had burned tribal houses. In addition, it was alleged that *The Shillong Times* editor received a midnight call from policemen attempting to interrogate him about the same news item. The issue was resolved informally after a press boycott of government programs led to a negotiated compromise.

On August 8, the Tamil Nadu government issued show cause notices against the editor and publisher of the *Kumudham Reporter*, a bi-weekly Tamil newspaper. The government charged the paper with "breach of privilege" for publishing two controversial articles.

The government maintained a list of banned books that may not be imported or sold in the country. In some cases, such as that involving Salman Rushdie's *Satanic Verses*, censors claimed the book aggravated communal tensions. In March 2004 the Maharashtra state government filed criminal charges against a foreign professor for making allegedly slanderous remarks in a book against Shivaji, a 17th century Marathi warrior, and his mother. The case remained open at year's end, and the Maharashtra state government continued to ban the book. On September 23, the Calcutta High Court removed the April 2004 West Bengal government ban on Bangladeshi author Taslima Nasreen's autobiography, *Dwikhandita, Amaar Meyebela*.

A government censorship board reviewed films before licensing them for distribution, censoring material it deemed offensive to public morals or communal sentiment.

The Informational Technology Act provides for censoring the Internet on public morality grounds, and defines "unauthorized access to certain types of electronic information" as a crime. According to Reporters Without Borders, this law theoretically allowed police to search the homes or offices of Internet users at any time without a warrant, but that claim has not been tested in court. The government re-

tained the right to limit access to the Internet, specifically information deemed detrimental to national security.

In 2003 the Ministry of Human Resources Development (HRD) passed strict academic guidelines requiring all central universities to obtain HRD permission before organizing “all forms of foreign collaborations and other international academic exchange activities,” including seminars, conferences, workshops, guest lectures, and research. These guidelines remained in force during the year.

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.—The authorities normally required permits and notification prior to holding parades or demonstrations, and local governments ordinarily 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, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code.

In May police killed a 9-year-old girl while attempting to disperse a clash between villagers over a graveyard in Dardpora, Srinagar. As crowds gathered over a disputed fence erected around a graveyard, police intervened and fired upon the mob. The deputy commissioner ordered a magisterial inquiry into the death, which remained open at year’s end.

In June police killed a 14-year-old boy in Dholpur, Rajasthan, when they fired into an angry mob protesting the death of a person in custody. The state government paid approximately \$2,300 (Rs. 100 thousand) in compensation to the next of kin and ordered an inquiry into the incident.

In June one person was reported killed when police in Keonjhar district in Orissa fired on a crowd of approximately 500 demonstrators, led by members of the Vishwa Hindu Parishad, who stormed a police station protesting the delay in the arrest of the molestor of a minor girl.

On August 16, in Maharajganj, Siwan district in Bihar, two people were killed after police opened fire on locals protesting the removal of a bus stand following the death of a child in a bus accident.

On August 19, in Churachandpur, Manipur, members of the Zomi Students’ Federation clashed with police during a demonstration demanding, among other matters, compensation for civilians killed in a landmine explosion and improvement in the educational infrastructure. The clash resulted in injuries to a number of students and police and the destruction of police property and vehicles. After police arrested six demonstrators, hundreds of students stormed the police station, demanding the unconditional release of those arrested. Demonstrators then converged on the deputy commissioner’s residence, setting fire to a government vehicle. Guards fired at the mob, injuring three. Police released the arrested students later in the day.

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 Ministry of Home Affairs before organizing international conferences. Human rights groups contended that this provided the government with substantial political control over the work of NGOs and their freedom of assembly and association. NGOs alleged that some members from abroad were denied visas arbitrarily.

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; however, it sometimes did not act effectively to counter societal attacks against religious minorities and attempts by state and local governments to limit religious freedom. This failure resulted in part from legal constraints inherent in the country’s federal structure, and in part from shortcomings in the law enforcement and judicial systems. There is no state religion, although the majority of citizens are followers of Hinduism, and this at times adversely affected the religious freedom of others. Some Hindu hardliners interpreted ineffective investigation and prosecution of their attacks on religious minorities as evidence that they could commit such violence with impunity.

During the year there were no significant changes in the status of religious freedom, and problems remained in some areas. Attacks against religious minorities persisted. No new anticonversion laws were enacted during the year. Hindutva, the politicized inculcation of Hindu religious and cultural norms to the exclusion of others, remained a subject of national debate and influenced some governmental policies and societal attitudes.

Human rights groups and others suggested that political links between the BJP and hard-line Hindu groups such as the Rashtriya Swayamsevak Sangh (RSS) influenced some state BJP governments' inadequate responses to acts of violence against religious minorities.

Legally mandated benefits were assigned to certain groups, including some groups defined by their religion. For example, educational institutions administered by minority religions were allowed to reserve seats for their co-religionists even when they received government funding. Benefits accorded dalits (formerly known as "untouchables") were revoked once they converted to Christianity or Islam, but not to Buddhism or Sikhism, ostensibly because once a dalit converted to Christianity or Islam, he would no longer technically be a dalit, although such caste distinctions informally existed in both religions.

The Religious Institutions (Prevention of Misuse) Act of 1988 criminalizes the use of any religious site for political purposes or the use of temples to harbor persons accused or convicted of crimes. While specifically designed to deal with Sikh places of worship in Punjab, the law applies to all religious sites. The Religious Buildings and Places Act requires a state government-endorsed permit before construction of any religious building. The act's supporters claimed that its aim was to curb the use of Muslim institutions by Islamic extremist groups, but the measure became a controversial political issue among religious Muslims.

In 2003 Gujarat passed a "Freedom of Religion" bill that provides penalties of up to three years in prison and a fine of \$1,000 (Rs. 40 thousand) for the use of allurements or force for religious conversion. Under the act, government officials must assess conversions, and the district magistrate must give prior permission. Human rights advocates believed that the law was meant to make it more difficult for poor persons, mistreated minorities, and others ostracized under the caste system to convert from Hinduism to another religion. At year's end, the rules and regulations for the Gujarat bill remain unframed, rendering the legislation inactive. Anticonversion laws have been in effect in Madhya Pradesh and Orissa since the 1960s, and laws against forcible conversions exist in Andhra Pradesh and Arunachal Pradesh. There were no reported convictions under these laws.

There is no national law barring a citizen or foreigner from professing or propagating his or her religious beliefs; however, the law prohibits visitors in the country on tourist visas from engaging in religious proselytization without first obtaining permission from the Ministry of Home Affairs. During the year, state officials continued to refuse permits to foreign missionaries to enter some northeastern states, on the grounds of political instability in the region. Missionaries and religious organizations must comply with the Foreign Contribution (Regulation) Act (FCRA) of 1976, which restricts funding from abroad. The government can ban a religious organization if it violates the FCRA, provokes intercommunity friction, or has been involved in terrorism or sedition.

On June 11, residents of a slum in a Mumbai suburb assaulted four missionaries leading a vacation bible school. The four departed the country on June 12. No formal charges were filed for the assault or against the missionaries for violating the FCRA. On June 13, four other missionaries with tourist rather than missionary visas were deported for conducting religious activities.

The legal system accommodated minority religions' personal status laws, and there were different personal laws for different religious communities. Religion-specific laws pertain in matters of marriage, divorce, adoption, and inheritance. The personal status laws of the religious communities sometimes discriminated against women (see section 5). Some laws, such as the repealed POTA, while not specifically written to target a minority group, affected particular ethnic or religious groups. A July 2004 study carried out by the NGO People's Tribunal in 10 states found that 99.9 percent of those arrested under POTA were Muslims.

Societal Abuses and Discrimination.—Tensions between Muslims and Hindus, and between Hindus and Christians, continued during the year. Attacks on religious minorities occurred in several states, which brought into question the government's ability to prevent sectarian and religious violence or prosecute those responsible for it. For example, in February two Christian pastors were killed in Orissa within a two-week period. On February 16, suspected Hindu radicals killed Gilbert Raj, a Baptist pastor, who had worked in the state for 13 years. Ten days later, unknown assailants stabbed and killed Pentecostal pastor Dilip Dalai. No charges were filed in either case. Muslims in some Hindu-dominated areas continued to experience intimidation and reported a lack of government protection, resulting in their inability to work, reside, or send their children to schools. In some areas, primarily in Gujarat, Hindutva groups displayed signs stating "Hindus only" and "Muslim-free area." There were also allegations of prohibitions on the Muslim call to prayer.

In May the Orissa High Court reduced Dara Singh's death sentence to life imprisonment. Singh was the prime suspect in the 1999 murder of Australian missionary Graham Staines and his two minor sons. The court acquitted the other 11 accused in the crime. On August 29, the CBI appealed the high court's reduction of Singh's sentence to the Supreme Court and urged the reimposition of capital punishment. The Supreme Court has yet to hear the case.

Christian organizations also claimed that BJP officials in some localities did not restrain the illegal activities of radical Hindu groups. The All-India Catholic Union (AICU) expressed concern over growing anti-Christian violence in several states ruled by the BJP. The AICU claimed that the perpetrators were members of fundamentalist groups affiliated with the RSS. For example on April 3, a local newspaper reported that senior BJP leader Dilip Singh Judeo threatened Christian missionaries during a public address, stating that "if Christian missionaries don't stop converting people, we will take up arms." In June allegedly in order to prevent violence, the Jodhpur district administration in Rajasthan rescinded permission for the Pentecostal Church of God to hold a gathering in the city after members of the Vishwa Hindu Parishad and Bajrang Dal protested, claiming that the church was converting Hindu children.

Hindu organizations frequently alleged that Christian missionaries forced or lured Hindus, particularly those of lower castes, to convert to Christianity. In Christian majority areas, there were occasional reports that Christians persecuted members of regional minorities.

Press reports indicate that following the December 2004 tsunami, a group of Christian missionaries allegedly refused to provide aid to Hindus in a southern Tamil Nadu village because they would not convert.

The Gujarat government took no action to arrest and convict those responsible for the widespread communal violence that occurred in 2002 following the burning of the Sabarmati Express train in Godhra (see section 1.e.).

There were no reports of anti-Semitic acts during the year against the country's small Jewish community.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for freedom of movement, and the government generally respected this in practice; however, in certain border areas the government required special permits.

Security forces often searched and questioned occupants at vehicle checkpoints, mostly in troubled areas in the Kashmir Valley or after major terrorist attacks. The government also expanded construction of a 330-mile security fence along the LOC in Jammu and Kashmir, causing occasional difficulties for local residents, as it cut through some villages and agricultural lands. By the end of the year, fence construction was nearing completion. The government's purpose for the security fence was to stop arms smuggling and infiltration by Pakistani-based terrorists or insurgents. The government attributed a decline in successful insurgent crossings during the year in part to the fence.

Under the Passports Act of 1967, the government may deny a passport to any applicant who "may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India." The government used this provision to prohibit foreign travel by some government critics, especially those advocating Sikh independence and members of the separatist movement in Jammu and Kashmir. Citizens from Jammu and Kashmir faced extended delays, often up to two years, before the Ministry of External Affairs would issue or renew their passports. Government officials regularly demanded bribes before issuing passports, especially for those from Jammu and Kashmir that required special clearances. Applicants born in Jammu and Kashmir—even the children of serving military officers born during their parents' deployment in the state—were subjected to additional scrutiny and police clearances prior to passport issuance.

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.

There was no law banning forced exile; however, there were no reports of forced exile during the year.

Internally Displaced Persons (IDPs).—According to the Norwegian Refugee Council, at least 650 thousand persons were displaced due to conflicts in Jammu and Kashmir, Gujarat, and the northeast (see sections 1.a., 1.c., and 1.g.). There was no progress on the plight of approximately 300 thousand Kashmiri Pandits (Hindu Brahmins) forced to flee the Kashmir Valley in the early 1990s after the outbreak

of separatist violence. The Pandits remained in refugee camps in Jammu and New Delhi, some 15 years after the start of the insurgency, and were unable to return to their homes in Jammu and Kashmir because of safety concerns, including the ongoing killings of Hindus in the state.

According to home ministry statistics, there were 55,476 registered Kashmiri Pandit families living in Jammu, 34,088 in Delhi, and 19,338 in other states receiving government support. Government-managed camps housed 5,778 families in Delhi and Jammu. The government provided monthly cash relief of \$70 (Rs. three thousand) and basic dry rations to the 14,869 families in Jammu. In Delhi, authorities provided \$75 (Rs. 3,200) to 4,100 families.

The Indo-American Kashmir Forum claimed there were 350 thousand internally displaced Pandits living outside the valley. In August 2004 the Jammu and Kashmir government announced plans to help displaced Kashmiri Pandits return to the valley, but at year's end, no Kashmiri had done so.

More than 87 thousand persons lived under poor conditions in relief camps in Assam as a result of ongoing violence in the northeast. According to press reports, nearly two thousand families who were riot victims from the Kokrajhar, Bongaigaon, and Dhubri districts in Assam awaited rehabilitation grants sanctioned by the state government following the 1993–99 riots in these areas. An NGO reported that the state government released part of the grant during the year. The government also provided assistance to IDPs and allowed them access to NGO and human rights organizations during the year. There were no reports that the government attacked or forcibly resettled IDPs. There were no reports of government programs specifically designed to facilitate resettlement.

Protection of Refugees.—The law does not provide for the granting of asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has not established a system for providing protection to refugees or asylum seekers. The government provided temporary protection to certain individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol. According to the office of the UN High Commissioner for Refugees (UNHCR), at the end of May, there were 11,124 registered refugees in the country. UNHCR reported during the year that the government hosted over 250 thousand unregistered refugees from Sri Lanka, Burma, and Tibet.

Since 1960, the government hosted approximately 110 thousand de facto refugees from Tibet.

At year's end, Nepal Communist Party leader C.P. Gajurel remained in jail in Chennai.

The government generally denied NGOs and the office of the UNHCR direct access to refugee camps, particularly in Mizoram, but in Tamil Nadu, UNHCR was given access and maintained a local office. The UNHCR had no formal status, but the government permitted its staff access to refugees living in urban centers. The government did not formally recognize UNHCR grants of refugee status, although it provided "residential permits" to many Afghans and Burmese. The government considered Tibetans and Sri Lankans in refugee camps to be refugees, and provided assistance to them, but since it regarded most other groups, especially Bangladeshi refugees, as economic migrants, it did not provide them with aid. However, in recent years, a number of court rulings extended protection to refugees whom the government had formerly considered economic migrants. During the year, the UN high commissioner for refugees was not invited and did not visit the country.

The government permitted recognized refugees to work, and the state and central governments paid for the education of refugee children and provided limited welfare benefits.

Conditions in the Tamil refugee camps were generally acceptable, although much of the housing was badly deteriorated. 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 during the year. The number of "special camps" which house suspected members of the Liberation Tigers of Tamil Eelam) was reduced to one camp. As of November 1, only 11 refugees remained in the single camp.

Those living in the country not formally recognized as refugees included some 80 thousand Chakmas and approximately 200 thousand Santhals, both from Bangladesh, who remained in Arunachal Pradesh, Mizoram, and Assam, respectively, as well as Afghans, Iraqis, and Iranians without valid national passports. The government either chose not to deport them, issue them renewable residence permits, or ignored their status. Due to financial and other reasons, many refugees were unable or unwilling to obtain or renew their national passports and were unable to regularize their status.

In 2004 the UNHCR assisted in the return of three thousand refugees from Tamil Nadu to Sri Lanka.

Ethnic Chins from Burma were among the non-recognized refugees in the north-eastern states. An estimated 40 thousand to 50 thousand Chins lived and worked illegally in Mizoram. NGOs estimated that during the year 10 thousand Chins with alleged ties to Burmese insurgent groups were expelled to Burma, where the military government reportedly jailed them. Mizoram human rights groups estimated that some 31 thousand 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. In 2004 Reang leaders in the camps pressed for reserved jobs, education benefits, and a comprehensive rehabilitation package. The Mizoram government rejected the demands, maintaining that only 16 thousand of the refugees had a valid claim to residence. After several rounds of negotiations, the Mizoram government and Reang-dominated Bru National Liberation Front insurgents signed a peace accord in June. Mizoram also agreed to take back Reangs who had fled to Tripura to escape the conflict.

In January the Supreme Court ordered the Ministry of Home Affairs, the election commission, and the governments of Mizoram and Tripura to resettle approximately 40 thousand displaced Reangs and add them to the electoral rolls.

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

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

Elections and Political Participation.—The government changed hands following free and fair national parliamentary elections in April and May 2004 in which approximately 675 million citizens participated. The country has a democratic, parliamentary system of government, with representatives elected in multiparty elections. Parliament sits for five years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. Citizens elected state governments at regular intervals except in states under president's rule.

Election-related violence occurred during the year. In February Naxalite insurgents killed seven policemen and polling officials in Palamu, Jharkhand, on the eve of the first state assembly elections.

Also in February Maoist rebels killed 11 persons in the first phase and 10 persons in the final phase of state assembly elections on Bihar and Jharkhand. Maoists beheaded one person in Giridih in Jharkhand for defying the Maoist call for a boycott.

According to the Jammu and Kashmir chief secretary, there were 109 incidents of violence in the state during the campaigning and voting for the 2004 parliamentary elections in April and May in which 31 civilians and six members of the security forces were killed, and 261 persons injured. In April 2004 the terrorist group Jaish-e-Mohammed (JeM) distributed hand-written notes ordering residents in parts of the Kashmir valley not to participate in elections. JeM also demanded that Kashmiris not work on public works projects and support locally organized strikes. In April 2004 terrorists cut off the ears of a man in Udhampur for voting in the polls. In a similar incident in Pulwama, members of the terrorist group Lashkar-e-Tayyiba cut off the finger of a villager because he had voted (voters' fingers were stained with ink after they cast their ballots).

There were numerous instances of police or security force interference with election-related activity in 2004. In Srinagar the chairman of the JKLF, Mohammad Yasin Malik, and the president of the Jammu and Kashmir Democratic Freedom Party, Shabir Ahmad Shah, were among six separatist leaders detained by police for peacefully campaigning against the 2004 parliamentary elections in Baramulla district in northern Kashmir. Police detained these persons and activists from other groups on a regular basis prior to elections prevent them from campaigning against voting on the grounds that their activities would disturb the peace. As a rule, the periods of detention were short, and detainees were quickly released.

There were 69 women in the 783-seat national legislature, and 7 women in the cabinet of ministers. Numerous women were represented in all major parties in the national and state legislatures. Constitutional amendments passed in 1992 reserved 33 percent of seats for women in elected village councils (Panchayats).

The constitution reserved seats in parliament and state legislatures for scheduled tribes and scheduled castes in proportion to their population (see section 5). Indigenous persons actively participated in national and local politics.

Government Corruption and Transparency.—Corruption was endemic in the executive and legislative branches of government. Transparency International deter-

mined that corruption was “all-pervasive” in the country. Election campaigns for parliament and state legislature seats were often funded with unreported money, and the government failed to combat the problem. In December the media highlighted one instance in which 11 members of parliament were videotaped accepting bribes.

On June 15, the government passed the Right to Information Act, mandating stringent penalties for failure to provide information or affecting its flow, and requiring agencies to self-reveal sensitive information. The government took extended periods of time to reply to information requests and often did not provide a response.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating abuses and publishing their findings on human rights cases; however, in a few circumstances, groups faced restrictions. Some domestic NGOs and human rights organizations faced intimidation and harassment by local authorities. The government banned 355 NGOs during the year for misuse of funds. In April 2004 ACHR alleged harassment by local authorities, including denial of government services and numerous intimidating visits from the security forces. Other human rights activists and NGOs also complained of surprise visits and other harassment by police and government officials.

Human rights monitors in Jammu and Kashmir were unable to move around the state freely to document human rights violations due to fear of retribution by security forces and countermilitants. Several individuals involved in the documentation of violations in Jammu and Kashmir, including lawyers and journalists, were attacked in past years, and in some cases, killed. No such cases were reported during the year, although one monitor was killed during the 2004 polls by an improvised explosive device (see sections 1.a. and 1.g.).

International human rights organizations were restricted, and foreign human rights monitors historically have had difficulty obtaining visas to visit the country for investigation purposes. For example, in 2004 the government did not respond when AI’s secretary general, Irene Khan Zubeida, applied for a visa. This was her third attempt, following unsuccessful visa applications in 2002 and 2003. AI claimed that the repeated visa denials may be linked to its demand for a retrial of the Best Bakery case and its report critical of state actions during the 2002 Gujarat riots.

The main domestic human rights organization was the government-appointed NHRC. The NHRC acted independently of the government, often voicing strong criticism of government institutions and actions. However, some human rights groups claimed the NHRC was hampered by numerous institutional and legal weaknesses, including statutory regulations and operational inefficiencies. The NHRC did not have the statutory power to investigate allegations and could only request that a state government submit a report. State governments often ignored these requests and, if a report was submitted, state governments rarely carried out its recommendations. Human rights groups such as ACHR claimed that the NHRC did not register all complaints, dismissed cases on frivolous grounds, did not adequately protect complainants, and did not investigate cases thoroughly.

The NHRC was able to investigate cases against the military; however, it could only recommend compensation for victims of abuse, and NHRC recommendations were not binding. Many states had their own human rights commissions, and the NHRC only has jurisdiction if a state commission fails to investigate. Human rights groups alleged that state human rights commissions were more likely than the NHRC to be influenced by local politics and less likely to offer fair judgments.

According to Home Ministry statistics, the NHRC received 241,368 complaints and closed 186,433 cases. During the year, the Supreme Court at NHRC request ordered the retrial of 10 riot cases from Gujarat, in which the high court acquitted the accused (see section 1.e.).

The Home Ministry examined several amendments to the 1993 Protection of Human Rights Act proposed by the NHRC seeking to increase its powers to investigate allegations of human rights violations by the armed forces. In the last 3 years, the NHRC investigated 289 such cases, resulting in action against 59 officials and the punishment of 19 offenders.

The 1993 Protection of Human Rights Act recommended that each state establish a human rights commission. As of October commissions existed in Assam, Chhattisgarh, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Manipur, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, and West Bengal. The Jammu and Kashmir state legislature established a state human

rights commission, but it had no authority to investigate alleged human rights violations committed by members of the security forces.

In April the Jammu and Kashmir human rights commission charged the state government, particularly the deputy commissioners, of diluting its authority and brushing aside its recommendations. The Jammu and Kashmir human rights commission received 305 complaints since its inception, regarding prisoner release, custodial deaths, and alleged security force harassment.

Tamil Nadu and Andhra Pradesh have special courts to hear human rights cases. The Uttar Pradesh government continued to defy a court order to reactivate its special human rights court.

The NHRC was active during year, highlighting human rights abuses throughout the country, and recommending compensation for victims of human rights abuses. For example, in July the NHRC recommended that the Haryana government conduct an independent investigation into police assaults on agitating workers at the Honda Motorcycle and Scooters India factory in Gurgaon. No action has been taken by year's end.

In June the NHRC represented five persons who had been jailed for more than 3 decades in Assam without trial (see section 1.c.).

In recent years the NHRC proposed and lobbied for schools to include a human rights course in their standard curricula, but at year's end no schools had implemented this suggestion. Several universities, however, introduced human rights courses into their curricula at the behest of the NHRC.

At year's end, the CCDP, a Punjab-based human rights organization, had not received an NHRC response to its report documenting 672 disappearance cases (see section 1.b.).

The Nanavati commission, tasked with conducting a re-inquiry into the 1984 massacre of Sikhs in Delhi, released its report in August. It cited several prominent Congress party leaders for complicity in the violence. The report highlighted law enforcement culpability in the deaths due to a deliberate lack of action and noted that only one policeman was convicted for committing atrocities during the riots, in which three thousand Sikhs were killed. Union minister Jagdish Tytler and Member of Parliament Sajjan Kumar were indicted in the report. Tytler resigned from parliament and Kumar resigned from the Delhi Rural Development Board after the report's release, but at year's end no formal punishment resulted from the report. The government set up two committees to provide compensation, promised by Prime Minister Singh to the victims' families.

At year's end, the two-member judicial commission created to investigate riot-related violence in Gujarat received an extension to complete its report.

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

The law prohibits discrimination on the basis of race, sex, religion, place of birth, or social status, and government authorities worked to enforce these provisions with varying degrees of success. Despite laws designed to prevent discrimination, social and cultural practices as well as other legislation had a profound discriminatory impact, and discrimination against women, persons with disabilities, indigenous persons, homosexuals, and national, racial, and ethnic minorities was a problem. The traditional caste system, as well as ethnic, religious, and language differences, deeply divided the society. According to the National Commission for Scheduled Castes and Scheduled Tribes, caste clashes were frequent in Uttar Pradesh, Bihar, Tamil Nadu and Karnataka.

Women.—Domestic violence was common and a serious problem. According to a 2004 National Commission for Women survey, 60 to 80 percent of women were abused in some way by their spouses, 42 percent were beaten physically, and 22 percent were expelled from their homes for at least a day. According to the women's group Majlis, many women were forced to remain in abusive relationships because of social and parental pressure and to protect their children. According to a survey conducted during the year by the International Institute for Population Studies, 56 percent of women believed wife beating was justified in certain circumstances.

Rape and other violent attacks against women continued to be a serious problem. According to the National Crime Records Bureau (NCRB), in 2004 authorities arrested 133,865 persons for violent attacks against women and there were 12,558 convictions. The NCRB reported 1,157 cases of rape against dalit women in 2004 and 523 cases of rape against the scheduled castes in the first six months of the year. Human rights groups claimed that these numbers were much lower than the actual totals.

Ineffective prosecution and societal attitudes made progress against domestic violence difficult. The NCRB confirmed that the number of rapes reported had declined from 16,373 in 2003 to 14,809 in 2004, while reported molestations had decreased

from 33,943 to 31,716. However, the NCRB pointed out that the number of rapes increased sharply at the end of 2004 to 17,633 cases. According to the NCRB, 2 rapes take place every hour, 1 in 5 victims was a child, and 19 out of 20 of those arrested for rape went unpunished.

The Home Ministry reported that in New Delhi during 2004, there were 130 reported dowry deaths, 490 rapes, 489 sexual molestations of women, 1,211 instances of cruelty by the husband or in-laws, and 1,599 reports of sexual harassment.

In June a father-in-law raped Imrana, a Muslim woman, in Muzzafarnagar, Uttar Pradesh. After the incident, local community and religious leaders ruled that she must separate from her husband and move in with the father-in-law who had raped her. They also determined that she should consider her former husband as her son, because she was now married to his father. The All India Muslim Personal Law Board, responsible for overseeing Muslim family law issues, refused to overturn this decision. Numerous women's organizations protested, but Uttar Pradesh chief minister Mulayam Singh Yadav supported the edict, claiming that the Muslim religious leaders ruling must have been deeply considered. In July police arrested the father-in-law and charged him with rape. He remained in judicial custody at year's end.

The press reported that violence against women was increasing, although some local women's organizations attributed the apparent increase to greater reporting. Only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, fostering a climate of impunity. Upper caste gangs often used mass rape to intimidate lower castes, and often gang raped as punishment for alleged adultery, or as a means of coercion or revenge in rural property disputes. The number of reported rape cases and the extent of prosecution varied from state to state.

In Lucknow in February 2004, six tribal women were raped while working in a brick kiln. The police initially refused to lodge a complaint and alleged that three of the six victims had not actually been raped. After higher authorities intervened, police filed charges and arrested two suspects.

In March a 21-year-old woman was tortured, stripped, made to sit on a donkey and paraded through Chandupur village, Uttar Pradesh, after a local mystic accused her of killing a small child. Police intervened, but no arrest was made.

On August 20, according to the AHRC, a rape victim and her child were auctioned off for 13 cents (Rs. 6) in Jharkhand. After four men raped Piary, a tribal woman, she became pregnant and demanded that her rapists take responsibility for her child. The village elders first decided that the perpetrators should pay Piary, but when she rejected this, they auctioned Piary and her child. Newspaper reports stated that a young man present during the auction empathized with Piary's plight, agreed to marry her and take responsibility for her child. The village heads approved and announced that the approximately \$280 (Rs. 12 thousand) collected from the four perpetrators would be given to Piary for the marriage. Human rights groups demanded the arrest of the perpetrators and the village heads, but at year's end, the police had made no arrests.

On September 13, a woman was allegedly gang raped on the Toofan Express train by seven people, three of whom were Railway Protection Force personnel. According to press reports, the Railway Ministry ordered an inquiry into the alleged gangrape and compensated the victim. Railway officials on duty at the time were suspended and a ticket examiner and vendor were arrested.

Women often bore the brunt of caste-based violence. For example on March 31, the NFO People's Watch-Tamil Nadu reported that in Vengamedu village, an upper caste man assaulted and sexually harassed a dalit woman for using a pathway forbidden to dalits. He tore off the woman's clothes, hit her 20 to 30 times, and verbally abused her. The victim attempted to lodge a complaint with the police, but Sub-Inspector Sidhuraj of the Chennimalai police refused to register her complaint. No action was taken and the man remained free at year's end.

The government prosecuted some rape cases during the year, but was not able to enforce rape laws effectively. In May three youths abducted and sexually assaulted a female student from Venkateswara College in South Delhi. Although police arrested one man, who was in judicial custody at year's end, the two other alleged rapists remained at large. In January two years after the gang rape of a student from the Maulana Azad Medical College in Delhi, an additional sessions court gave life sentences to the two accused.

Providing or taking a dowry is illegal under the Dowry Prohibition Act of 1961; however, dowries continued to be offered and accepted, and dowry disputes remained a serious problem. In a typical dowry dispute, the groom's family harassed a new wife for not providing a sufficient dowry. This harassment sometimes ended in the woman's death, which the family often tried to portray as a suicide or accident. In 2004 the government registered 6,250 dowry death cases under the Dowry

Prohibition Act, in which husbands or in-laws murdered women for not providing sufficient dowry.

In September the Delhi Commission for Women reported 677 cases of abuse against women from January to July, of which 92 percent were dowry related and 22 percent a result of harassment by in-laws. In 2004 Delhi police's crime against women cell recorded 7,987 dowry-related cases. Of these, police counseled 1,853 families to a compromise, filed criminal charges in another 1,200 cases, and in five thousand cases the victim did not pursue the matter. In 2004 there were 122 dowry-related deaths in Delhi. In March the West Tripura sessions court sentenced three persons to five years' rigorous imprisonment for abetting the suicide of a woman by torturing her for dowry in 2003.

The Tamil Nadu government reported an increase in cases filed under the Dowry Prohibition Act from 175 in 2003 to 294 cases in 2004. In 2004 the government won convictions in 32 cases of dowry harassment, including 8 involving murder. Lawyers confirmed that wife-battering cut across all religions, caste, and educational levels. Convictions potentially took several years. For example, during the year the Chennai high court convicted two accused persons of a dowry death case initially filed in 1995.

Usually at a disadvantage in dowry disputes, women have begun to speak out against dowry demands. In February a woman from Bhiwani, Haryana, refused to join her husband after her marriage ceremony because of a dowry demand by her in-laws. The local panchayat stood by the woman's decision.

The media often reported cases of dowry murder. On August 19, 19-year-old Charanpreet Kaur was set on fire and killed by her father-in-law because her parents could not meet her in-laws' ever-increasing demands for dowry. Kaur made a statement to police before she died, and her husband and in-laws were arrested. At year's end, all accused were in New Delhi's central jail awaiting formal murder charges.

Under the law, courts must presume that the husband or the wife's in-laws are responsible for every unnatural death of a woman in the first seven years of marriage—provided that harassment was proven. In such cases, police procedures required that an officer of the rank of deputy superintendent or above investigate and that a team of two or more doctors perform the postmortem procedures; however, in practice police did not follow these procedures consistently.

Madhya Pradesh, Kerala, Bihar, and several other states had a chief dowry prevention officer (CDPO), although it was unclear how effective they were. Madhya Pradesh also required that all government servants seeking to marry produce a sworn affidavit by the bride, the groom, and his father that no dowry exchanged hands.

In May the Supreme Court ordered the creation of a commission to end dowry. In August parliament passed the Domestic Violence Bill to deal with dowry-related harassment and murder. The bill provides sweeping powers to magistrates to issue protection orders.

In May parliament amended the Code of Criminal Procedure to stipulate that mandatory DNA tests in all rape cases. In an effort to protect women from sexual assault by police officers, the bill also prohibits the arrest of women after sunset and before sunrise except in "exceptional circumstances."

The government banned *sati*, the practice of burning a widow on the funeral pyre of her husband, in the 1800s, and there were no instances of *sati* in recent years. However, in January according to press reports, the Rajasthan High Court dropped charges against 18 persons in a 1987 case in which 18-year-old Roop Kanwar was killed through *sati* after witnesses recanted their testimony. Women's groups demanded an appeal, but there was no action at year's end.

During the year, honor killings continued to be a problem, especially in the northern states of Punjab and Haryana. Human rights organizations estimated that up to 10 percent of all killings in those two states were honor killings; however, the true number may be much higher. In August Delhi police arrested Jai Singh and four others for the alleged honor killing of his daughter, Sunita. Singh was accused of hiring the four to kill his daughter for living separately from her husband. At year's end, the five were in jail awaiting trial.

Dalit women were often singled out for harassment. For example, they were occasionally stripped naked by mobs and paraded in public for offending persons belonging to higher castes. Police failed to arrest a man in Haryana who in February 2004 cut off a 50-year-old dalit woman's nose. In December in Keraragard, Orissa, upper-caste Hindus and a priest beat four dalit women for entering a temple forbidden to them. The village council then fined the women approximately \$22 (Rs. 1,000). The district collector ordered a probe into the incident.

Numerous laws exist to protect women's rights, including the Equal Remuneration Act of 1976, the Prevention of Immoral Traffic Act of 1956, the sati Prevention Act of 1987, and the Dowry Prohibition Act of 1961. However, the government often was unable to enforce these laws, especially in rural areas where traditions were deeply rooted. According to press reports, the rate of acquittal in dowry death cases was high, and due to court backlogs, they took an average of six to seven years to conclude.

In August parliament amended the Hindu Succession Act, which removed discriminatory clauses from the Hindu Succession Act by giving equal inheritance rights to Hindu, Buddhist, Jain, and Sikh women, including giving married daughters the same inheritance rights as male heirs.

The government took a number of steps to assist female crime victims. These included establishing telephone help lines, creating short-stay homes, providing counseling, occupational training, medical aid, and other services, and creating grant-in-aid schemes to provide rehabilitation rescue.

While the act of prostitution is legal, most aspects surrounding prostitution are illegal. The Immoral Trafficking Prevention Act (ITPA) criminalizes the offenses of selling, procuring, and exploiting any person for commercial sex as well as profiting from the prostitution of another individual. Prostitution is only legal when no third party is involved, it is not done in or near a public place, it is not forced, there is no solicitation, or when the prostitute resides alone. Section 8 of the ITPA criminalizes the act of solicitation for prostitution, which has been used in the past to arrest and punish women and girls who were victims of trafficking. According to UNICEF, in 2004 the country contained half of the one million children worldwide who entered the sex trade. Many tribal women, who are particularly vulnerable, were forced into sexual exploitation (see section 6.c.).

In recent years sex workers began to demand legal rights, licenses, and reemployment training. For example, in June 2004 numerous sex workers in Goa were displaced after authorities demolished their homes. According to the chairperson of the NCW, some of the displaced sex workers refused a government compensation offer, claiming that it had not been accurately described to them.

The country is a significant source, transit point, and destination for many thousands of trafficked women (see section 5, Trafficking).

Sexual harassment was common, with a vast majority of cases unreported to authorities. A 2003 study by a senior professor at the Madras Institute of Development Studies chronicled the hazards faced by some women in the workforce. Among these were physical and verbal abuse from male supervisors, restricted use of toilets, and the denial of lunch breaks. In June 2004 a joint report released by the NCW and the national press institute found that most women experienced gender discrimination at their workplaces.

Attempts by women to report harassment often resulted in further problems or dismissal. In January 2004 a female general manager of Dena Bank in Mumbai was suspended after filing sexual harassment charges against senior bank officials; there were no developments in the case at year's end. In April 2004 a Sahara airlines executive employee in Mumbai was fired after filing a sexual harassment complaint. At year's end, the case was ongoing.

In April 2004 the Supreme Court determined that a victim of sexual harassment had a right to compensation based on the findings of an internal departmental report or investigation of the case.

The law prohibits discrimination in the workplace; however, enforcement was inadequate. In both rural and urban areas, women were paid less than men for the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to their owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. State government-supported microcredit programs for women began to have an impact in many rural districts. In March the government amended the law to provide flexibility for women to work in factories on the night shift. Women's organizations welcomed the move but stressed the need to improve security for such women.

In February 2004 the government amended the divorce laws to expand the venues where a woman could file and obtain a divorce. Earlier provisions in the Hindu and Special Marriage Acts forced women to file cases in cities or towns where they had resided during the marriage or where the marriage took place; however, the amendment permits women to file where they currently reside. At year's end, there were no changes to the triple *talaq* provisions, which allowed Muslim men to divorce their wives simply by saying "talaq" three times.

In September 2004 after a request by the All-India Democratic Women's Association, the army allowed female military recruits to be examined by female doctors at their request.

Many tribal land systems, notably in Bihar, denied tribal women the right to own land. Other laws relating to the ownership of assets and land accorded women little control over land use, retention, or sale. However, several exceptions existed, such as in Ladakh and Meghalaya, where women traditionally controlled family property and enjoyed full inheritance rights.

Children.—The government has not demonstrated a commitment to children's rights and welfare and does not provide compulsory, free, and universal primary education. According to government statistics from 2003, 165 million of the 203 million children between the ages 6–14 attended school. The upper house of parliament failed to take action on the constitutional amendment passed by the lower house of parliament in 2002 that provided free and compulsory education to all children aged 6 to 14.

In contrast to the government's figures, UNICEF reported that approximately 120 million of the country's 203 million school-aged children attended primary school, a net primary school enrollment/attendance rate of 77 percent. A significant gender gap existed in school attendance, particularly at the secondary level, where boys outnumbered girls 59 to 39 percent, according to the latest government statistics released in 2001. The government initiated a plan to provide free schooling for girls from single-child families. The program would also provide a \$45 (Rs. 2,005) per month stipend for university studies. Under the scheme, families with only two girls will get a 50 percent reduction in primary education fees.

Government schools were underfunded and understaffed. For example, in August, it was reported that a government school in Sara Village, Bihar, had only 2 teachers for 180 students. Human rights groups asserted that teachers in government schools often did not show up for work or left their jobs early in the day. Government teachers often were not paid on time or in full, were not given adequate training, and worked under very poor conditions. Corruption and misappropriation of educational funds was commonplace.

The law provides for free medical care to all citizens; however, availability and quality of that care remained problems, particularly in rural areas.

The law prohibits child abuse; however, there were societal patterns of abuse of children, and the government did not release comprehensive statistics.

Abuse of children in both public and private educational institutions was a problem. Schoolteachers often used corporal punishment on their students. In January a teacher forced 12 students of the Nalpawand primary school in Bastar to eat human excreta as punishment for allegedly chewing tobacco. The teacher was suspended. In February police arrested the principal of a government school in north-west Delhi and three others for raping a 16-year-old student. The Delhi government suspended two of the accused from their posts, but no criminal charges were filed at year's end.

In August in Delhi, a 6-year-old child suffered multiple fractures when a teacher beat him for not completing his assignment. The teacher was suspended, and the school's principal was transferred after the police were notified.

Buying and selling female children was a common practice in rural Tamil Nadu. For instance, police arrested a 55-year-old man for selling an 18-month-old child to a woman in Kancheepuram district in September. The seller informed the police that he had purchased the child for \$23 (Rs. 1,000).

The government was responsive to some incidents of violence against children. In September the juvenile justice court ruled that any failure by school management or teachers to protect students from sexual abuse or provide them with a safe school environment is punishable with a prison term of up to six months. In February the Supreme Court sentenced a man to death for the 2001 rape and murder of a 6-year-old girl in Uttar Pradesh. Earlier the Allahabad High Court had acquitted the man.

Children were subjected to abuse during certain religious ceremonies. In April in the Virudhnagar district of Tamil Nadu, police arrested 80 persons for participating in a ritual of burying infants alive as a means of appeasing a goddess. Tamil Nadu enacted a law in 2002 to stop this offense, but the practice continued in the state during the year.

Unlike in previous years, there were no reports of child ordination. In March 2004 child rights activists challenged in the Mumbai high court the ordination of 9-year-old Priyal Bagericha as a Jain nun. Child rights activists alleged that various religious sects ordained children as young as eight years old and that children were not competent to make such decisions on their own. According to media reports, 600 such child monks existed in various Jain sects. The high court ruled that it was ac-

ceptable for small children to become monks, as the children had the option to return to their families at any time.

The law prohibits child marriage, a traditional practice that occurred throughout the country, and sets the legal marriage age for girls at 18; however, according to the Health Ministry's Country Report on Population and Development, published during the year, half of all women were married by the age of 15. Each year in April and May during the Hindu festival of Askhay Tiritiya, thousands of child marriages were performed in Madhya Pradesh, Chhattisgarh, and Rajasthan. Although state governments conducted awareness campaigns during the year, enforcement was weak, and the practice was accepted in certain communities. In April the NCW launched the Bal Vivah Virodh Abhiyan (Child Marriage Protest Program), a nationwide awareness program against child marriages with particular focus on the states of Bihar, Rajasthan, Chattisgarh, Madhya Pradesh, Jharkhand, and Uttar Pradesh.

In April the government reported that it prevented 200 child marriages in the Rajnandgaon district of Chattisgarh, a district known for mass child marriages in April and May each year. In 2004, 135 child marriages were prevented in the district, and a priest was sent to jail for presiding over these ceremonies.

In May a villager attacked Shakuntala Verma, a district supervisor in Dhar district of Madhya Pradesh, when she tried to convince the man not to marry his minor daughters on "Akshaya Tiritiya," one of the most auspicious days of the Vedic calendar. Police registered the case, but no further action was taken.

Child marriage was the norm among certain scheduled castes and tribal communities in the Krishnagiri district of Tamil Nadu. Brides were typically between the ages of 8 and 12 years of age, while the groom was generally much older.

According to the 1999 National Family Health Survey, 64.3 percent of women in Andhra Pradesh, 46.3 percent in Karnataka 24.9 percent in Tamil Nadu, and 17 percent in Kerala were married before the age of 18.

Trafficking and commercial sexual exploitation of children was a problem (see section 5, Trafficking).

Although the law prohibits and the government conducted programs to limit the use of amniocentesis and sonogram tests for sex determination, NGOs in the area reported that some family planning centers revealed the sex of fetuses. Both female infanticide and selective feticide targeting female babies occurred during the year as the traditional preference for male children continued. The government did not enforce effectively the law prohibiting termination of a pregnancy for sexual preference. In May the health minister stated to parliament that there were no feticide-related convictions in the past eight years.

Parents often gave priority in health care and nutrition to male infants. Women's rights groups pointed out that the burden of providing girls with an adequate dowry was one factor that made daughters less desirable. The states of Punjab, Haryana, Gujarat, Uttar Pradesh, Himachal Pradesh, Delhi, parts of Tamil Nadu, Maharashtra, and Karnataka reported particularly low female/male ratios, with Punjab reporting the lowest ratio in the country: 793 females to 1,000 males.

Trafficking in Persons.—The Immoral Traffick (Prevention) Act (ITPA) prohibits trafficking in human beings; however, trafficking in persons remained a significant problem. Some law enforcement officials participated in and facilitated trafficking in persons.

The ITPA toughened penalties for trafficking in children, particularly by focusing on traffickers, pimps, landlords, and brothel operators, while protecting underage victims. Conviction for an offense committed against a child (under age 16) was punishable by imprisonment for 7 years to life. In the case of minors (16 to 18 years), the punishment is from 7 to 14 years imprisonment. Other penalties under the act range from minimum terms of imprisonment of one year for brothel keeping, to minimum terms of 7 years to life imprisonment for detaining a person, with or without consent, for prostitution. During the year there were more than 195 prosecutions against traffickers. The police were charged with enforcing the country's laws on prostitution and trafficking in women and children, NGOs, observers, and women in prostitution said that police actions were often part of the problem. NGOs alleged that corruption at the enforcement level helped perpetuate trafficking. The government cooperated with groups in Nepal and Bangladesh to deal with the problem and began to negotiate bilateral antitrafficking agreements, particularly through the South Asian Association for Regional Cooperation. Numerous NGOs, including the Action Against Trafficking and Sexual Exploitation of Children, provided training and conducted informational meetings.

The country was a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labor. There were an estimated 500 thousand child prostitutes nationwide. More than 2.3 million

girls and women were believed to be working in the sex industry, and experts believed that more than 200 thousand persons were trafficked into, within, or through the country annually. There were approximately three million trafficking victims in the country, and two thousand rescues a year. Women's rights organizations and NGOs estimated that more than 12 thousand and perhaps as many as 50 thousand women and children were trafficked into the country annually from neighboring states for commercial sexual exploitation. According to an International Labor Organization (ILO) estimate, 15 percent of the country's estimated 2.3 million prostitutes were children, while the UN reported that an estimated 40 percent of prostitutes were below 18 years of age. Tribal persons made up a large proportion of the women forced into sexual exploitation.

The country was a destination for Nepali and Bangladeshi women and girls trafficked for the purpose of labor and prostitution. Internal trafficking of women and children was widespread. To a lesser extent, the country was a point of origin for women and children trafficked to other countries in Asia, the Middle East, and the West. The country also served as a transit point for Bangladeshi girls and women trafficked for sexual exploitation to Pakistan and for boys trafficked to the Gulf states to work as camel jockeys. The country was also a growing destination for sex tourists from Europe, the United States, and other Western countries, and NGOs reported that sexual exploitation of children for sex tourism remained a significant problem in the states of Goa and Kerala (see section 5, Women; Children).

The Ministry of Labor and Employment reported in December that it rescued 916 child laborers from Maharashtra and 648 from Delhi.

An estimated 6 to 10 thousand children from Nepal and Bangladesh were trafficked into the country annually for commercial sexual exploitation. Girls as young as seven years of age were trafficked from economically depressed neighborhoods in Nepal, Bangladesh, and rural areas of the country to the major prostitution centers of Mumbai, Calcutta, and New Delhi. NGOs estimated that there were approximately 100 to 200 thousand women and girls working in brothels in Mumbai, and 40 to 100 thousand in Calcutta. In West Bengal, the organized traffic in illegal Bangladeshi immigrants was a principal source of bonded labor. Calcutta was a transit point for traffickers sending Bangladeshis to New Delhi, Mumbai, Uttar Pradesh, and the Middle East.

Within the country, women from economically depressed areas often moved to cities seeking greater economic opportunities, and once there they were often forced by traffickers into prostitution. In many cases, family members sold young girls into prostitution. Extreme poverty, combined with the low social status of women, often resulted in parents handing over their children to strangers for what they believed was employment or marriage. In some instances, parents received payments or the promise that their children would send wages back home.

According to the Indian Center for Indigenous and Tribal Peoples, more than 40 thousand tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation; many came from tribes driven off their land by national park plans. A Haryana-based NGO revealed widespread trafficking of teenaged girls and young boys from poverty-stricken Assam to wealthier Haryana and Punjab for sexual slavery under the pretext of entering into arranged marriages or for forced labor. There was also significant trafficking for real marriages due to decades of large-scale and increasing female feticide.

Boys, often as young as age four were trafficked to the Middle East or the Persian Gulf as jockeys in camel races, and many boys ended up as beggars in Saudi Arabia during Hajj (pilgrimage). The majority of such children worked with the knowledge of their parents, who received \$200 (Rs. 9,300) for their child's labor. Many children were kidnapped for forced labor, with kidnappers earning approximately \$150 (Rs. seven thousand) per month from the labor of each child. The child's names were usually added to the passport of a Bangladeshi or female citizen who already had a visa for the Gulf. Girls and women were trafficked to the Persian Gulf states to work as domestic workers or for commercial sexual exploitation.

The NCW reported that organized crime played a significant role in the country's sex trafficking trade and that trafficked women and children were frequently subjected to extortion, beatings, and rape. Although a few women were abducted forcibly or drugged, most were trafficked through false offers of marriage, employment, or shelter. Poverty, illiteracy, and lack of employment opportunities contributed to the trafficking problem as well as police corruption and collusion. Although corruption was endemic, there was no known anticorruption initiative linked specifically to trafficking. NGOs alleged that issues such as ignorance, a lack of political resolve, and corruption at the enforcement level perpetuated the problem. Police in Chennai, Mumbai, and New Delhi worked actively with NGOs to target traffickers and safeguard victims after their rescue.

Victims of trafficking were subject to threats, including emotional blackmail, violence, and confinement, as well as the threat of apprehension by authorities, detention, prosecution, and deportation. Women involved in prostitution in Mumbai and Calcutta claimed that harassment, extortion, and occasional arrests on soliciting charges usually characterized police intervention. NGOs, victims, and the media continued to identify corruption at the enforcement level as an impediment to swifter and fairer justice for trafficked women and children.

In many cases police or the staff of government remand centers, where rescued victims were housed temporarily, sexually abused trafficking victims. Similarly, arrested prostitutes were quickly returned to brothels after the brothel operators paid bribes to the authorities. In other cases, arrested prostitutes were released into the custody of traffickers and madams posing as relatives. In these cases, the debt owed by the girls to the brothel operators and traffickers increased, as the costs of bribing or legally obtaining release of the girls was added to their labor debt.

Some NGOs knowledgeable about the trafficking situation identified traffickers and the locations of girls being held captive by brothel owners. However, other NGOs were reluctant to trust police with this information, due to their past conduct in brothel raids and the likelihood that many trafficking victims would be arrested and re-victimized rather than assisted by such raids. Several NGOs had significant successes, however, in working with police to target brothels with children.

The ITPA required police to use only female police officers to interrogate girls rescued from brothels. The ITPA also required the government to provide protection and rehabilitation for these rescued girls. The vast majority of arrests made under ITPA were for solicitation rather than trafficking or trafficking-related crimes. During the year this pattern changed in Delhi, Bangalore and Mumbai. Police reportedly no longer arrested trafficked women and children for soliciting, and in Tamil Nadu, such arrests diminished significantly.

Implementation of the ITPA's provisions for protection and rehabilitation of women and children rescued from the sex trade improved. The government significantly increased police training and modestly improved inter-state coordination of antitrafficking efforts, cooperated with NGOs, supported awareness campaigns, and increased the number of shelter facilities available to rescued trafficking victims.

The Home Ministry and the Bureau of Police and Research Development (BPRD) began a law enforcement training program, considered a significant achievement by NGOs, to sensitize police and improve trafficking arrests and convictions. The Department of Women and Child Development (DWCD) improved delivery of support services through greater coordination with its state counterparts and civil society organizations. Government-run shelters in some localities, specifically Mumbai, expanded significantly under the *Swadhar* (women's home) scheme.

In March the home minister of Maharashtra ordered the closure of all dance bars operating in the state, many of which served as prostitution and trafficking outlets. In recent years, traffickers began favoring these bars as a venue in which to engage in trafficking, instead of the more blatant brothel-based trafficking. However, the government's implementation of this order without a rehabilitation plan caused displacement of women, forcing many to enter direct prostitution in Mumbai, Delhi, Goa, and other major trafficking destinations.

In November the Home Ministry organized a significant conference with the United Nations Office of Drugs and Crime to raise awareness of human trafficking and to state, for the first time, their commitment to addressing this issue with resources and manpower.

Over the last several years, arrests and prosecutions under the ITPA increased slightly. All indications suggested a growing level of trafficking into and within the country. In particular, due to the Maoist instability in Nepal, trafficking increased significantly from that country.

Persons with Disabilities.—The Persons with Disabilities Act provides equal rights to all persons with disabilities; however, advocacy organizations acknowledged that its practical effects were minimal, in part due to a clause that makes the implementation of programs dependent on the "economic capacity" of the government. Widespread discrimination occurred against persons with physical and mental disabilities in employment, education, and access to health care. Neither law nor regulation required accessibility for persons with disabilities. Government buildings, educational establishments, and public spaces throughout the country had almost no provisions for wheelchair access. The Tamil Nadu government introduced a 3 percent reservation for persons with disabilities in education and employment, and government buildings have made arrangements for wheelchair access. However, human rights activists complained that available facilities were not sufficient.

Mental health care was a problem. Hospitals were overcrowded and served primarily as dumping grounds for persons with disabilities. Patients generally were ill-

fed, denied adequate medical attention, and kept in poorly ventilated halls with inadequate sanitary conditions. In July the NHRC determined that insufficient attention was paid to issues of the mental illness and called for better enforcement of national laws. At year's end, no action was taken on the 2001 NHRC recommendation to remove all persons with mental illness from jails. In March the NHRC issued guidelines to jails lodging mentally challenged persons stipulating the need for open lawns, daily physical and mental activities, and strict rules limiting the use of force to self-defense and attempted escape.

The government provided special arrangements for voters with disabilities during the April–May parliamentary elections, but it was not able to meet their needs on a countrywide basis. Pursuant to a Supreme Court directive, the election department attempted to make all polling places accessible by providing wooden ramps. However activists criticized the Election Commission's lack of compliance and delay and were physically prevented from protesting outside of the commission's office in April. The government provided access to most polling stations in larger cities like New Delhi, but access in rural areas was uneven.

The disability division of the Ministry of Social Justice and Empowerment 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. Moreover, the impact of government programs was limited. Significant funding was provided to a few government organizations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India. With the adoption of the Persons with Disability Act, a nascent disabled rights movement slowly raised public awareness of the rights of persons with disabilities.

The National Commission for Persons with Disabilities (NCPD) had the responsibility to recommend to the government specific programs to eliminate inequalities in status, facilities, and opportunities for disabled persons, to review the status and condition of institutions delivering services, and to submit annual reports with recommendations. In February the government constituted a new NCPD headed by a former governor, Sunder Singh Bhandari. In April the Rajasthan High Court directed the state government to promote the establishment of special schools for disabled children in both the public and private sectors; however, few teachers were trained to meet the special needs of disabled children. Also, the National Center for the Promotion of Employment for Disabled People stated in September that there was a shortage of educational institutions for the disabled and that the admissions process was marked by harassment.

In February the country's civil services introduced a quota for the employment of 20 persons with disabilities per year.

In June the central board for secondary education issued guidelines to schools requiring barrier-free education in schools, colleges, libraries, and hostels. It also took steps to provide Braille books to educational institutions.

In July disabled rights NGOs reported that persons with disabilities were not able to obtain duty free imports of artificial limbs, crutches, wheelchairs, walking frames, and other medical needs. They also claimed that no effort was made to make railway compartments, platforms, and railways accessible to the disabled, and noted that less than 1 percent of the disabled were employed.

In August the government began the first disabled-friendly train service between Bhopal and Nizamuddin (Delhi) station. The train had an exclusive coach for persons with disabilities and Braille tags for seat and berth numbers in all coaches.

The Equal Opportunities, Protection of Rights and Full Participation Act of 1995 stipulates a 3 percent reservation in all educational institutions for persons with disabilities; however, statistics showed that only about 1 percent of the students had disabilities. The Times Insight Group reported in September that most colleges and universities did not know about the law.

The government provided special railway fares, education allowances, scholarships, customs exemptions, rehabilitation training and budgetary funds from the Ministry of Rural Development to assist the disabled; however, implementation of these entitlements was not comprehensive. Parents of children with developmental disabilities lobbied the government for a special security fund, but, no action was taken on this request at year's end.

National/Racial/Ethnic Minorities.—The 1955 Civil Rights Act made the practice of untouchability, which discriminates against dalits and others defined as scheduled castes, a punishable offense; however, such discrimination remained ubiquitous, stratifying almost every segment of society. Many members of lower castes were relegated to the most menial of jobs and had little social mobility. The widespread belief that dalits and low caste Hindus, Muslims, Christians, and Sikhs were

inferior compounded the discrimination they faced. Despite stated efforts by the government to eliminate the discriminatory aspects of caste, the practice remained, and widespread discrimination based on the caste system occurred throughout the country. Human rights groups asserted that the government was not committed to ending caste-based discrimination, pointing at the government's failure to fill over 50 thousand vacant positions specifically reserved for dalits.

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). These "scheduled" castes, dalits, and tribes were entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. The impact of reservations and quotas on society and on the groups they were designed to benefit was a subject of active debate. According to the 2001 census, scheduled castes, including dalits, made up 16 percent (166.6 million) of the population, and scheduled tribes were 8 percent (84.3 million). In June the Andhra Pradesh cabinet approved a 5 percent reservation for Muslims in government jobs and educational institutions, raising total reservations in the state to 51 percent of the state government workforce. By allotting 5 percent to Muslims, the government recognized Muslims as a disadvantaged minority. In December parliament passed a constitutional amendment providing for reservation to scheduled castes, tribes, and the other backward classes in non-minority, unaided, private educational institutions.

Many rural dalits worked as agricultural laborers for caste landowners without remuneration. The majority of bonded laborers were dalits (see section 6.c.). Dalits, among the poorest of citizens, generally did not own land, and often were illiterate. They faced significant discrimination despite laws to protect them, and often were socially prohibited from using the same wells, attending the same temples, and marrying upper-caste Hindus. In addition, they faced social segregation in housing, land ownership, and public transport. Many dalits were malnourished, lacked access to health care, worked in poor conditions (see section 6.e.), and continued to face social ostracism.

Despite a high court order and judicial directives first issued in 1998, dalits continued to be excluded from the Kandadevi car festival, a Hindu temple celebration in Tamil Nadu. During the year, the Tamil Nadu government permitted only 26 dalit families to take part in the festival. NGOs reported that crimes committed by higher caste Hindus against dalits often went unpunished, either because the authorities failed to prosecute such cases or because the crimes were unreported by the victims, who feared retaliation.

The National Campaign on Dalit Human Rights alleged higher-caste Hindus discriminated against dalit fishing communities and that local governments were negligent in providing aid and registering dead or missing dalits in the aftermath of the December 2004 tsunami. NGOs and some government officials concurred, stating that higher-caste fishing communities had discriminated against dalit communities and prevented them from receiving aid. For example, during tsunami relief operations, the Nagapattinam, Tamil Nadu, village council distributed government-supplied aid only to fisherman and not to dalits who were also left homeless. On January 12, as reports of discrimination surfaced, the government deployed 10 trucks of relief supplies specifically for dalit communities.

On October 19, *The Indian Express* reported that Sanjay Nandan, a government official working for the Election Commission in Bihar, actively discriminated against dalits and lower caste members, claiming that Nandan was disappointed that there was no way to determine an employee's caste in the human resources database. Nandan claimed that the Gujarat government, where he previously worked, listed caste as a field in the database, making it easy to pick and choose officials by caste. When the Election Commission learned of his discrimination, they transferred Nandan back to Gujarat. No further action was taken against Nandan, or against the government of Gujarat, at year's end.

Violence against dalits was a problem during the year. For example on May 19, in Gowribindur, Karnataka, upper-caste Hindus clashed with those from lower castes. The South India Cell for Human Rights Education (SICREM) lodged a complaint with the district collector. In July five dalits were killed in caste clashes in Madhya Pradesh. A 21-year-old dalit man was killed in July in Vellore district in Tamil Nadu when he was attacked by 14 caste Hindus. Eight of the attackers were arrested.

In August 50 dalit houses in Gohana, Haryana, were set on fire by a mob after dalits were accused of murdering a caste Hindu. Police intervened to disperse the crowds, and no one was injured. dalits staged protests against the incident in Amritsar, Kapurthala, and Ludhiana in September, and clashed with the police. There were 20 arrests, and 6 policemen were injured. It was alleged that some non-dalits

attempted to limit dalit participation in the political process. Human rights lawyers and activists accused police of arresting dalit leaders to keep them away from the polls. A fact-finding mission led by SICREM revealed that in March, in a village in Karnataka, upper caste persons destroyed dalit homes and injured six after a dalit group won local elections. There were no arrests in this case. In October in Mujehra Khurd, Mirzapur, three men set fire to a dalit woman after she refused to withdraw from a village election. Police launched a search for the men, but there were no reports of an arrest. In December in Raisen District of Madhya Pradesh, five upper-caste men chopped off the arm of a dalit woman who refused to withdraw rape charges against their fellow caste members. An investigation was ongoing at year's end.

Christians historically rejected the concept of caste; however, because many Christians were converts from low caste or dalit backgrounds, they continued to suffer the same social and economic limitations as Hindu dalits, particularly in rural areas. Low-caste Hindus who converted to Christianity also lost their eligibility for affirmative action programs, while those who became Buddhists or Sikhs did not.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offenses against disadvantaged persons and prescribes stiff penalties for offenders; however, this act had only a modest effect in curbing abuse. Human rights NGOs alleged that caste violence was on the increase, and that it claimed hundreds of lives. Caste violence was especially pronounced in Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Tamil Nadu, and Andhra Pradesh.

Social pressures to enforce caste lines led to episodes of vigilante retribution against dalits who tried to assert their independence. While rare in urban settings, examples of intolerance occurred regularly in rural parts of the country. Complicated social and ethnic divisions in society created severe localized discrimination.

In January the dalit-based Bahujan Samaj Party announced that it distributed axes to its workers in Rajasthan to strengthen 'dalit power,' and counter violent attacks by upper caste Hindus. Also in January upper caste landlords in Ferozepur, Punjab, forced three dalit boys to drink urine after a fight over a cricket match. The boys were later handed over to the police and kept in custody for eight days.

Discrimination against dalits covered the entire spectrum of social, economic, and political activities, from withholding of rights to killings and was not solely practiced by high-caste Hindus against the lower castes and dalits. The stratification within the dalit community also resulted in discrimination by higher-level dalits against lower-level dalits. There was also discrimination within the Christian community by older, established ancestral Christians against more recent dalit Christian converts.

In 2004 the newly elected BJP government in Rajasthan selectively withdrew a large number of caste discrimination cases filed against the RSS and other Hindu nationalist groups during the tenure of the previous Congress-led government.

Indigenous People.—The Innerline Regulations enacted by the British in 1873 provide the basis for safeguarding tribal rights in most of the northeastern border states, and in practice the regulations were followed. These regulations prohibit any nontribal person, including citizens from other states, to cross an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from the protected areas without prior authorization. No outsiders were allowed to own land in tribal areas without approval from tribal authorities.

The 2001 census indicated that 8.2 percent of the population belonged to scheduled tribes. According to the Indian Confederation of Indigenous and Tribal Peoples, 80 percent of the tribal population lived below poverty level, and more than 40 thousand tribal women, mainly from Orissa and Bihar, were forced into situations of economic and sexual exploitation (see section 5, Trafficking, and section 6.c.). The 1955 Protection of Civil Rights Act prescribed special courts to hear complaints of atrocities committed against tribal people. In February 2004 the Supreme Court decided that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 still applied to crime victims from scheduled tribes and castes, even if they had converted from Hinduism to another religion. The decision was in response to an appeal of a Kerala high court decision, which held that because a rape victim had converted to Christianity she was no longer covered by the act.

Despite constitutional safeguards, the rights of indigenous groups in eastern parts of the country often were ignored. The NCRB reported 26,252 crimes committed against Scheduled Castes and Scheduled Tribes in 2003. Indigenous peoples suffered discrimination and harassment, were deprived of their land, and subjected to torture and to arbitrary arrest. For example, in December in Kalahandi District, Orissa, 4 tribals who had worked for 3 months without pay were seriously beaten and locked in a shed when they asked for their wages, while 15 others were forced to stand naked for hours during a cold night. The four tribals escaped and com-

plained to the district labor office, which reportedly inquired into the charges. No other action took place.

There was encroachment on tribal land in almost every eastern state, including by illegal Bangladeshi immigrants, and by businesses that illegally removed forest and mineral products. In July 2004 forest department staff ignored a Supreme Court order and forcefully evacuated a tribal village in the Betul district of Madhya Pradesh. Persons from other backgrounds often usurped places reserved for members of tribes and lower castes in national educational institutions. Mob lynching, arson, and police atrocities against tribal persons occurred in many states (see section 1.c.).

Numerous tribal movements demanded the protection of tribal land and property rights. The Jharkhand movement in Bihar and the Bodo movement in Assam reflected deep economic and social grievances among indigenous peoples. As a result of complaints, tribal-populated states were created in 2000 from the Jharkhand area of Bihar and the Chhattisgarh region of Madhya Pradesh and authorities provided local autonomy to some tribal people in the northeast.

Other Societal Abuses and Discrimination.—Section 377 of the Penal Code punishes acts of sodomy, buggery and bestiality; however, the law is commonly used to target, harass, and punish lesbian, gay, bisexual, and transgender persons. Human rights groups stated that gay and lesbian rights were not considered legitimate human rights in the country. In November the government declined to change provisions of Section 377 outlawing homosexuality. In a response to a case being heard by the Supreme Court, the government stated, “public opinion and the current societal context in India does not favor the deletion of the said offense from the statute book.” Gays and lesbians faced discrimination in all areas of society, including family, work, and education. Activists reported that in most cases, homosexuals who do not hide their orientation were fired from their jobs. Homosexuals also faced physical attacks, rape, and blackmail. Police committed crimes against homosexuals and used the threat of Section 377 to coerce victims into not reporting the incidents. The overarching nature of Section 377 allowed police to arrest gays and lesbians virtually at will. However, in July in Jharkand, two lesbians belonging to the scheduled tribes married in defiance of both law and tradition.

In September 2004 the Delhi High Court dismissed a legal challenge to Section 377. Plaintiffs filed the case in 2001 after police arrested four gay and lesbian rights workers at the NAZ Foundation International and National Aids Control Office premises in Lucknow, Uttar Pradesh. Police charged the workers with conspiracy to commit “unnatural sexual acts” and possession of “obscene material,” which was reportedly safe-sex educational materials. The workers were detained for more than 45 days and denied bail twice. The court dismissed the case, ruling that the validity of the law could not be challenged by anyone “not affected by it,” as the defendants had not been charged with a sex act prohibited by law. In April despite the September 2004 challenge of Section 377 by two gay and lesbian NGOs, the NAZ Foundation International, and the National Aids Control Office, the government submitted a petition to the Supreme Court reaffirming the validity of Section 377.

Homosexuals were detained in clinics against their will and subjected to treatment aimed at curing them of their homosexuality. The NAZ Foundation filed a petition with the NHRC regarding a case in which a man was subjected to shock therapy. The NHRC declined to take the case as gay and lesbian rights were not under its purview.

Authorities estimated that HIV/AIDS had infected approximately 4.5 million persons, and there was significant societal discrimination against persons with the disease. According to the ILO, 70 percent of persons suffering from HIV/AIDS faced discrimination.

In Ahmedabad in April 2004, an HIV positive woman committed suicide at her home after allegedly being harassed by her co-workers.

HRW said 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. In August the media reported that an AIDS patient, Arjun Debnath, who was initially refused admission in several hospitals in West Bengal, was chained to his hospital bed until a human rights group intervened.

In January 2004 a Mumbai High Court ruled that HIV-positive persons could not be fired on the basis of their medical status.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right of association, and the government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorization. More than 400

million persons made up the country's active work force, and some 30 million of these workers were employed in the formal sector. The rest overwhelmingly were agricultural workers and, to a lesser extent, urban non-industrial laborers. While some trade unions represented agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members were part of the 30-million-member formal sector. Of these 13 to 15 million, some 80 percent of the unionized workers were members of unions affiliated with 1 of the 5 major trade union centrals.

In practice legal protections of worker rights were effective only for the organized industrial sector. Outside the modern industrial sector, laws were difficult to enforce. The authorities generally prosecuted and punished those persons responsible for intimidation or suppression of legitimate trade union activities when the victims were members of nationally organized unions. Unaffiliated unions were not able, in any instance, to secure for themselves the protections and rights provided by law. Union membership was rare in the informal sector.

The Trade Union Act prohibits discrimination against union members and organizers, and employers were penalized if they discriminated against employees engaged in union activities.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively. Although a system of specialized labor courts adjudicates labor disputes, there were long delays and a backlog of unresolved cases. When the parties were unable to agree on equitable wages, the government may establish boards of union, management, and government representatives to make a determination. The legislation distinguishes between civil servants and other workers. Public service employees have very limited organizing and collective bargaining rights.

Trade unions often exercised the right to strike, but public sector unions were required to give at least 14 days' notice prior to striking. Some states had laws requiring workers in certain nonpublic sector industries to give notice of a planned strike.

The Essential Services Maintenance Act allows the government to ban strikes in government-owned enterprises and requires conciliation or arbitration in specified essential industries; however, essential services never have been defined in law. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this act. Thus the act is subject to varying interpretations from state to state. State and local authorities occasionally used their power to declare strikes illegal and force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

The Supreme Court upheld a Kerala high court verdict declaring all general strikes illegal and making organizers of such protests liable for losses caused by the shutdowns, drawing attention to the difference between a complete closedown of all activities and a general strike. While it is likely that the ruling was introduced to discourage political strikes, unions stated that it remained a potential threat to their activities. Other court rulings also declared strikes illegal and made striking workers pay damages because consumers and the public suffered during strikes. In August 2004 the Supreme Court declared all strikes by government employees to be illegal; however, in practice this was not enforced.

There are seven Export Processing Zones (EPZs). Entry into the EPZs ordinarily was limited to employees, and such entry restrictions applied to union organizers. While workers in the EPZs have the right to organize and to bargain collectively, union activity was rare. In addition, unions did not vigorously pursue efforts to organize private-sector employees in the years since EPZs were established. Most EPZ workers were women. The International Confederation of Free Trade Unions reported that overtime was compulsory in the EPZs, that workers often were employed on temporary contracts with fictitious contractors rather than directly by the company, and that workers feared that complaints about substandard working conditions would result in their being fired.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or bonded labor, including by children; however, such practices remained widespread. The Bonded Labor System (Abolition) Act prohibits all bonded labor by adults and children. Offenders may be sentenced up to three years in prison, but prosecutions were rare. Enforcement of this statute, which was the responsibility of state and local governments, varied from state to state and generally was not effective due to inadequate resources and societal acceptance of bonded or forced labor. On the occasions when inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently resulted in acquittals. NGOs estimated that there were 20 to 65 million bonded laborers in the country, including a large

number of children (see section 6.d.). According to an ILO report published during the year, an overwhelming majority of bonded laborers belonged to the scheduled castes and scheduled tribes.

Some press reports in 2002 indicated that Tamil Nadu alone had 25,800 bonded laborers, in response to which the state government began planning and implementing rehabilitation programs. Government officials worked to release other bonded laborers in many states. In West Bengal, organized traffic by illegal Bangladeshi immigrants was a source of bonded labor (see section 5, Trafficking). According to press reports, an NGO in Madurai rescued 33 children sold into slave labor during the year. According to the Ministry of Labor and Employment, 266,283 bonded laborers were identified and rehabilitated in recent years.

Female bondage, forced prostitution, and trafficking in women and children for the purpose of prostitution were widespread problems (see section 5, Trafficking). According to press reports from 2004, prison officials used prisoners as domestic servants and sold female prisoners to brothels (see section 1.c.). *Devadasis*, defined as prepubescent girls given to a Hindu deity or temple as “servants of God,” were taken from their families and required to provide sexual services to priests and high caste Hindus. Many of the girls eventually were sold to urban brothels (see section 5).

d. Prohibition of Child Labor Practices and Minimum Age for Employment.—The government prohibits forced and bonded child labor; however, this prohibition was not effectively enforced, and forced child labor was a problem. The law prohibits the exploitation of children in the workplace; however, NHRC officials admitted that implementation of existing child labor laws was inadequate, that administrators were not vigilant, that children were particularly vulnerable to exploitation, and that the commission was focusing on the adequacy of existing legislation.

There is no overall minimum age for child labor. However, work by children under 14 years of age was barred completely in factories, mines, and other hazardous industries. In occupations and processes in which child labor is permitted, work by children was permissible only for six hours between 8 a.m. and 7 p.m., with one day's rest weekly. In addition to industries that utilize forced or indentured child labor (see section 6.c.), there was evidence that child labor was used in the following industries: hand-knotted carpets; gemstone polishing; leather goods; sari weaving; beadwork; and sporting goods. The government assisted working children through the National Child Labor Project, established in more than 3,700 schools. Government efforts to eliminate child labor affected only a small fraction of children in the workplace. The law stipulates penalties for employers of children in hazardous industries to be \$430 (Rs. 20 thousand) per child employed, and establishes a welfare fund for formerly employed children. The government is required to find employment for an adult member of the child's family or pay \$108 (Rs. five thousand) to the family. According to the South Asian Coalition on Child Servitude, authorities were pursuing over six thousand cases against employers. NGOs noted that requiring the government to pay the family of a child laborer or finding the adult family member a job could be a disincentive to investigating crimes.

Estimates of the number of child laborers varied widely. According to the Ministry of Labor and Employment census, there were 12.7 million child laborers in the country. The government reported that Delhi had 41,899 child laborers. Through the Child Labor (Prohibition & Regulation) Act, 1986, the government convicted 1,799 offending employers in 2001–02, 325 in 2002–03 and 3,910 in 2003–04. The ILO estimated the number at 44 million. However, NGOs asserted the number of child laborers is closer to 55 million. Most, if not all, of the 87 million children not in school did housework, worked on family farms, worked alongside their parents as paid agricultural laborers, or worked as domestic servants.

The working conditions of domestic servants and children in the workplace often amounted to bonded labor. Children were often sent away to work because their parents could not afford to feed them or in order to pay off a debt incurred by a parent or relative. There were no universally accepted figures for the number of bonded child laborers. However, in the carpet industry alone, human rights organizations estimated that there were as many as 300 thousand children working, many of them under conditions that amount to bonded labor. Officials claimed that they were unable to stop this practice because the children were working with their parents' consent. In addition, there was a reasonable basis to believe that products were produced using forced or indentured child labor in the following industries: brassware; hand-knotted wool carpets; explosive fireworks; footwear; hand-blown glass bangles; hand-made locks; hand-dipped matches; hand-broken quarried stones; hand-spun silk thread and hand-loomed silk cloth; hand-made bricks; and beedis (hand-rolled cigarettes). A number of these industries exposed children to particularly hazardous work conditions.

In 2000 the government issued a notification prohibiting government employees from hiring children as domestic help; however, this did not prevent nongovernment employees from employing children as domestic help, and many children were employed as domestic help throughout the country. On February 23, in West Bengal, according to the Asian Human Rights Commission, a police sub-inspector tortured an 8-year-old girl he employed after accusing her of stealing cookies. The girl was hospitalized for serious head injuries and at year's end, the sub-inspector was not charged.

On June 29, police and an NGO rescued children from Bihar working in an embroidery factory in New Delhi. Two persons were arrested.

Those employers who failed to abide by the law were subject to penalties specified in the Bonded Labor System (Abolition) Act (such as fines and imprisonment) and also to disciplinary action at the workplace. For example, in June 2004 the Allahabad high court ordered the release of nine children working with the Great Roman Circus. At year's end the case was still pending.

In 2003 the labor commissioner estimated that there were 3 thousand bonded child laborers in the Magadi silk twining factories. In January 2004 HRW interviewed children in three states, Karnataka, Uttar Pradesh, and Tamil Nadu, and found that production of silk thread still depended on bonded children.

State governments were responsible for the enforcement of laws against child labor, but oversight was generally lax, especially in the informal sector, which employed most children. The continuing prevalence of child labor was attributed to social acceptance of the practice, the failure of state and federal governments to make primary school education compulsory, ineffective state and federal government enforcement of existing laws, and economic hardships faced by families.

Employers in some industries took steps to combat child labor. The Carpet Export Promotion Council (CEPC), a quasi-governmental organization that received funding from the Ministry of Textiles, has a membership of 2,500 exporters who subscribed to a code of conduct barring them from purchasing hand-knotted carpets knowingly produced with child labor. The CEPC conducted inspections to insure compliance and allowed members to voluntarily use a government-originated label to signify adherence to the code of conduct. However, the CEPC stated that even with its programs, it was impossible to ensure that a carpet had been produced without child labor, given the difficulties of monitoring a decentralized and geographically dispersed industry. A private-sector research and consulting firm conducted the inspections, which covered only 10 percent of registered looms. The inspectors had difficulty locating unregistered looms. The government also cooperated with UNICEF, the UN Educational, Scientific and Cultural Organization, the UN Development Programme, and the ILO in its efforts to eliminate child labor.

The government participated in the ILO's International Program on the Elimination of Child Labor (IPEC). Approximately 145 thousand children were removed from work and provided with education and stipends since IPEC programs began in 1992. The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC also intervened in individual cases. Press reports said that a Madurai NGO rescued 33 children who had been sold into slave labor during the year.

e. Acceptable Conditions of Work.—State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an 8-hour workday, a 49-hour workweek, and minimum working conditions. These standards were generally enforced and accepted in the modern industrial sector; however, they were not observed in less economically stable industries.

Minimum wages varied according to the state and to the sector of industry. Such wages provided only a minimal standard of living for a worker and 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. Some industries, such as the apparel and footwear industries, did not have a prescribed minimum wage in any of the states in which they operated.

State governments were responsible for enforcement of the Factories Act. However, the large number of industries covered by a small number of factory inspectors, and the inspectors' limited training and susceptibility to bribery resulted in lax enforcement.

The enforcement of safety and health standards also was poor.

Industrial accidents continued to occur frequently due to improper enforcement of existing laws. Chemical industries were the most prone to accidents. According to the director general of mines' safety rules, mining companies must seal the en-

trances to abandoned underground mines, and opencast mines must be bulldozed and reforested. However, these rules seldom were obeyed.

Safety conditions were better in the EPZs than in the manufacturing sector. The law does not provide workers with the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment. Legal foreign workers were protected under the law; however, illegal foreign workers had no protection.

MALDIVES

The Republic of Maldives has a parliamentary style of government with a strong executive, and according to 2004 estimates, a population of approximately 285 thousand. The president appoints the cabinet and 8 members of the 50-member parliament. The president derives additional influence from his constitutional role as the “supreme authority to propagate the tenets of Islam.” The unicameral legislature, the People’s *Majlis*, chooses a single presidential nominee who is selected or rejected in a national referendum. Voters approved President Maumoon Abdul Gayoom for a sixth 5-year term in 2003. In May 2004 elections were held to choose the members of the Special Majlis, a body convoked by the president specifically to address constitutional reforms. The civilian authorities generally maintained effective control of the security forces.

The government’s human rights record improved during the year, but serious problems remained. The following human rights problems were reported:

- restrictions on citizens’ ability to change government
- abuses by security forces
- limited freedom of the press
- limited freedom of assembly and association
- restricted freedom of religion
- inequality of women
- restrictions on worker rights

The government made significant strides forward with respect to human rights during the year. On June 2, the parliament unanimously agreed to recognize political parties, allowing party leaders to hold public meetings. Prison conditions improved and most detainees’ families were informed of arrests, a marked improvement over previous years. The government allowed the International Committee of the Red Cross (ICRC) access to prisons in April and August.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—During the year there were no reports that the government or its agents committed arbitrary or unlawful killings. On September 1, the courts found five former National Security Service (NSS) officials guilty of manslaughter and sentenced them to life in prison for their role in the killing of a prisoner during the 2003 Maafushi prison riots.

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 credible reports of mistreatment of persons during the course of arrest and transport to detention facilities. On August 12, following the arrest of opposition leader Mohamed Nasheed and three others staging a sit-down protest in Malé, demonstrations, some of which turned violent, broke out in the capital and continued for two nights. The government imposed a curfew the nights of August 12–14, and security forces detained 158 persons in connection with the demonstrations. By year’s end all persons taken into custody were released, although Mohamed Nasheed remained under house arrest. According to eyewitness accounts, some members of the NSS used excessive force in breaking up crowds, employing tear gas and rubber bullets, swinging their batons indiscriminately at by-standers, and occasionally beating persons in their path. The government claimed that security forces’ actions were proportional to rioters’ violence.

In general, punishments were limited to fines, compensatory payment, house arrest, imprisonment, or banishment to a remote atoll (see section 1.d.). The government generally permitted those who were banished to receive visits by family members.

Prison and Detention Center Conditions.—According to those who conducted visits, prison conditions generally met international standards, although pretrial detainees were not held separately from convicted prisoners. Unlike in previous years, there were no reports that prisoners were kept in cramped conditions in solitary confinement. Continuing improvements in prison conditions that began in 2004, most prisoners were granted access to legal counsel.

There were one prison and two detention centers in the country.

The government permitted prison visits by foreign diplomats, the ICRC, and the Maldives Human Rights Commission (MHRC). The ICRC conducted prison visits in April and in late August and was granted access to all facilities and detainees it requested. The MHRC also visited detainees following the August 12–14 unrest.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, persons were held arbitrarily by the government. According to the attorney general (AG), following the August 12–14 unrest in Malé, 158 persons were held in investigative detention. The AG added that those without previous police records were immediately released. Of those initially detained, (see section 2.b.), 76 persons were detained for 2 weeks without charge. However, unlike in previous years, most of the accused were permitted access to counsel and family members.

On June 2, the day parliament was to determine whether to recognize political parties, the government arrested six members of the opposition Maldivian Democratic Party (MDP), including MDP chairman Mohamed Nasheed. Government sources told the media that the arrests were a pre-emptive measure, designed to ensure parliament could deliberate peacefully without members of the opposition engineering public disturbances. The MDP denied that they had planned to interrupt or obstruct the parliamentary meeting. The government released the six MDP members on June 3.

Role of the Police and Security Apparatus.—The 287-officer Maldives Police Service, which until September 2004 functioned as a subset of the NSS, investigate crimes, collect intelligence, make arrests, and enforce house arrest. Although the NSS was responsible for external security, it also retains a role in internal security. The director of the NSS reports to the minister of defense.

Police initiated investigations in response to written complaints from citizens, police officers, or government officials, or on suspicion of criminal activity. They are not legally required to obtain arrest warrants or inform an arrested person of his rights, but government officials said that in practice, law enforcement officials were urged to inform arrested persons of their rights. The AG referred cases to the appropriate court based on the results of police investigations. The authorities generally kept the details of a case secret until they were confident that the charges were likely to be upheld.

Neither police corruption nor impunity posed problems during the year. Government inquiries into the 2003 Maafushi Prison uprising concluded that improved supervision of prison operations and increased rehabilitation opportunities for inmates were necessary, and these reforms were implemented.

Arrest and Detention.—The law provides for an arrestee to be informed of the reason for arrest within 24 hours. Based on improvements to the legal system during the year, a detainee must be informed of the right to counsel at the time of arrest. Detainees are permitted to hire a lawyer; however, the court does not appoint one. An arrestee's family must be informed of the arrest within 24 hours, although the law does not require that police inform the family of the grounds for the arrest. Unlike in previous years, detainees are permitted to have counsel present during police questioning. Under a bail system introduced during the year a prisoner has the right to a ruling on bail within 36 hours; however, there were reports that bail procedures were not adequately publicized, explained, or consistently implemented.

The law provides for investigative detention. Once a person is detained, the arresting officer must present evidence to a legal committee within 24 hours. The committee can then recommend detention for up to seven days pending further investigation. After the 7 days have expired, the officer can petition a second committee, which can then recommend detention for a maximum additional 15 days. If the authorities are unable to present sufficient evidence after the 22 days provided, the prisoner is eligible for release, although judges have the authority to extend detention past 22 days upon receiving a petition from the arresting officer, or on the basis of factors such as the detainee's previous criminal record, the status of the investigation, the type of offense in question, or whether the detainee might pose a threat to himself or others if released.

In February 2004 the government arrested approximately eight persons associated with the MDP, a then-unregistered political party, for planning a demonstration. The reason for the arrests was not clear; however, Amnesty International as-

serted that the men were arrested because the government suspected they were planning a demonstration against the government, while the international media reported the cause of arrest as traffic and burglary offenses. According to the AG, the government dropped all charges against the eight.

e. Denial of Fair Public Trial.—The law does not provide for an independent judiciary, and the judiciary is subject to executive influence. Until November, in addition to his authority to review high court decisions, the president influenced the judiciary through his power to appoint and dismiss judges. On November 12, the government announced the creation of a 10-member judicial services commission, led by the chief justice, responsible for appointing, dismissing, and examining the conduct of all judges. The commission recommends candidates for judgeships to the president; after the president approves a candidate, the commission maintains the right to accept his choice or veto it.

There are three courts: one for civil matters; one for criminal cases; and one for family and juvenile cases. There is also an independent high court in Malé which handles a wide range of cases, including politically sensitive ones. The president's judicial advisory council, led by the chief justice, is empowered to review all court rulings as the final arbiter of appeals.

Trial Procedures.—The law provides that an accused person be presumed innocent until proven guilty, and that an accused person has the right to defend himself “in accordance with Shari’a (Islamic law).” The judiciary generally enforced these rights. During a trial, the accused also has the right to be represented by a lawyer and may call witnesses (see section 1.d.). 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.

Most trials were public and were conducted by judges and magistrates trained in Islamic, civil, and criminal law. There were no jury trials.

Civil law is subordinate to Shari’a, which is applied in situations not covered by civil law, as well as in family law matters such as divorce and adultery. Courts adjudicating matrimonial and criminal cases generally do not allow legal counsel in court because, according to a 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 lower court. Those convicted have 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 are equivalent (see section 5).

Political Prisoners.—There were no confirmed reports of political prisoners; however, the MDP and the MHRC asserted that some persons were held for political reasons. Human rights groups, the MHRC, and the MDP stated that the August 12 arrest and subsequent prosecution of MDP Chairman Mohamed Nasheed on charges of terrorism and crimes against the state were politically motivated. Police initially informed Nasheed that he was being taken into protective custody. Later, police charged him with one count of terrorism and one count of committing a crime against the state—tantamount to sedition.

The government maintained that Nasheed fomented violence leading up to the August 12–14 demonstrations and that his trial was not politically based. By year's end authorities released all detainees arrested after those demonstrations, other than Nasheed. Nasheed's trial, which opened on October 27, remained in temporary adjournment at year's end, and Nasheed was remanded to house arrest. On October 18, the criminal court sentenced Jennifer Latheef, human rights activist and daughter of MDP spokesman Mohamed Latheef, to 10 years' imprisonment for her participation in a violent demonstration in Malé in 2003. In October authorities also sentenced 3 others to 10 years imprisonment for their involvement in the 2003 demonstration.

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;” and unlike in previous years the government generally respected privacy rights in practice. However, a progovernment Web site intercepted, altered, and published e-mails written by Mohamed Nasheed, pro-opposition British citizens based in Sri Lanka and the United Kingdom, and one pro-opposition news reporter. The NSS may open the mail of private citizens and monitor telephone conversations if authorized to do so in the course of a criminal investigation.

Although the law provides that residential premises and dwellings should be inviolable, there is no legal requirement for search or arrest warrants. The AG or a commanding officer of the police must approve the search of private residences.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law does not provide for freedom of speech or of the press, and the government generally did not respect these rights in practice. 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.

Unlike in previous years, the government permitted members of political parties, including those in the opposition, to hold public meetings and rallies with prior government approval. The government approved a number of public meetings held by the MDP.

The government registered almost 200 independent newspapers and periodicals, but either a current or former government minister owned 3 of the 4 dailies published on a regular basis, *Aafathis*, *Haveeru* and *Miadhu*.

The government or its sympathizers owned and operated the only television and radio stations. The government did not interfere with the sale of satellite receivers. However, a pro-opposition Colombo-based radio station reported that its broadcasts were blocked in Malé. The government radio and television stations aired reports drawn from other foreign newscasts.

After an easing of restrictions in the late 1990s, the government generally took a more stringent attitude toward freedom of the media. The country's press laws permit criminal rather than civil prosecution of writers or editors accused of irresponsible journalism. In September police investigated journalists affiliated with *Minivan News*, an independent pro-opposition news organization formerly affiliated with the MDP, because of *Minivan's* August 2 publication of an article quoting an MDP member who said those in the police force who use torture must be made to understand what pain they inflict. Government officials said that the article incited violence, and its author and editors should be subject to prosecution. At year's end the police investigation remained open (see section 1.e.).

On September 4, police arrested a *Minivan News* reporter taking photographs at an MDP rally. The reporter claimed he was kicked and beaten on the way to the police station, where he was placed in detention until September 25. He was then transferred to house arrest for an additional 20 days, after which he was released.

In October police detained editor Aminath Najeeb and reporter Abdulla Saeed for incitement during the August 12–14 unrest, and possible drug possession. Government officials claimed that these charges were apolitical and unrelated to Nasheed and Saeed's work as journalists. At year's end Nasheed was under house arrest and Saeed was still in detention. In all, police had investigated 7 out of 15 *Minivan News* staff since the paper registered in July.

On December 28, authorities initiated an investigation into *Minivan's* Colombo offices on charges that two *Minivan* employees were conducting seditious activity and arms trafficking. Sri Lankan police served a search warrant and examined *Minivan* premises in Colombo but found no evidence of criminal activity. *Minivan* stopped broadcasting radio news programs and the website's writers left Sri Lanka to work from the United Kingdom.

Although an amendment to the law decriminalizes "true account(s)" of government actions by journalists, both journalists and publishers practiced self-censorship. On April 28, authorities barred a foreign reporter for *Minivan News* from entering the country, for his alleged ties to Islamic terrorism (see section 2.d.).

Regulations that make publications responsible for the content of the material they publish remain in effect, but the government took no legal actions against publications initiated during the year.

There were no legal prohibitions on the import of foreign publications except for those containing pornography or material otherwise deemed objectionable to Islamic values.

The government generally did not interfere with the use of the Internet; however, it blocked the pro-opposition *Dhivehi Observer* news website and other sites deemed pornographic.

The law prohibits public statements contrary to government policy or to the government's interpretation of Islam. Therefore, although there were no reported cases of transgressions of these laws in the academic arena, the laws constrain academic freedom to the extent that academics practiced self-censorship.

b. Freedom of Peaceful Assembly and Association.

Freedom of Assembly.—The law provides for freedom of assembly; however, the government imposed limits on this right in practice.

In 2004 the government relaxed informal restrictions on public assembly; however, demonstrations were only permissible with advance permission. During the year organized groups were required to seek government permission before meeting, but many meetings, including those held by the opposition, were officially sanctioned. After political parties were legally recognized on June 2, various groups held meetings to attract signatories to fill out party registration petitions.

During the August 12–14 protests in Malé, there were complaints of surveillance during which NSS officials photographed and videotaped those present. The government claimed that the photographers were documenting events to prevent allegations of police brutality; opposition groups said that the government limited their freedom of assembly and speech through intimidation and arbitrary arrests.

On September 6, the government repealed its one-day moratorium on political party rallies after the representatives of political parties assured the elections commissioner their leaders would not incite violence. The ban had been instituted to stem possible violence after a proposed MDP rally.

Freedom of Association.—The law provides for freedom of association; however, the government imposed some limits on freedom of association in practice. The government only registered clubs and other private associations if they did not contravene Islamic or civil law.

Unlike in previous years, the government allowed political parties to register and function. On May 21, after the AG issued a legal opinion stating that parties were permissible within the framework of the law, the president asked the People's Majlis to address the registration of political parties. On June 2, it agreed unanimously to permit political parties to register citizens as members.

There was one independent local human rights group, Hama; a few other non-governmental organizations (NGOs) focusing on tsunami relief existed in the country as well (see section 4). In 2003 the president formed, by decree, the MHRC, which met frequently until August. Commission members are appointed by the president. On July 21, the parliament approved a bill codifying the MHRC, and on August 18, the president signed the bill into law. The same day, MHRC Chairman Ahmed Mujthaba resigned, protesting that the MHRC bill did not make the organization fully compliant with UN guidelines. Two other commissioners followed suit in September, leaving the MHRC without a quorum and therefore unable to function at year's end.

c. Freedom of Religion.—The law does not provide for freedom of religion, and it was significantly restricted. The constitution designates Sunni Islam as the official state religion, and the government interpreted this provision as imposing a requirement that citizens be Muslims. The law prohibits the practice of any religion other than Islam. The government observes a combination of Shari'a and civil law. Civil law is subordinate to Shari'a, which is applied in situations not covered by civil law as well as in cases such as divorce and adultery. Foreign residents were allowed to practice their religion only if they did so privately and did not encourage citizens to participate. President Gayoom repeatedly stated that no other religion should be allowed in the country, and the home affairs ministry announced special programs to safeguard and strengthen religious unity. The president, the members of the People's Majlis, and cabinet members must be Muslim.

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 loss of citizenship from conversion to a non-Islamic religion. In the past, would-be converts were detained and counseled regarding their conversion from Islam.

Islamic instruction in school is mandatory, and the government funded the salaries of religious instructors. The government established a Supreme Council of Islamic Affairs to provide guidance on religious matters. The council certifies imams, who are responsible only for presenting Friday sermons. Imams may choose to use a set of government-approved sermons on a variety of topics, but they are not legally empowered to write sermons independently. No one, not even an imam, may publicly discuss Islam unless invited to do so by the government.

Societal Abuses and Discrimination.—Under the country's Islamic practice, certain legal provisions discriminate against women (see sections 1.e., 3, and 5). There were no known Jewish citizens, and there were no reports of anti-Semitic acts.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the government generally respected them in practice. Citizens are free to travel at home and abroad, to emigrate, and to return. Employers often housed foreign workers at their worksites.

The law allows for forced exile, and the government used forced exile in practice. In June 2004 the criminal court sentenced Mohamed Aswan, second in command of the Maafushi Prison security unit, to six months' banishment to a remote island for disobeying government orders during the 2003 confrontation at the prison (see section 1.d.). Presidential pardons permitted the more than 600 persons temporarily banished to other islands to return to their homes.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol (see section 5), and the government has not established a system for providing protection to refugees or asylees. 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. The government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not routinely grant refugee status or asylum.

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

The law limits citizens' ability to change their government, and the strong executive exerted significant influence over both the legislature and the judiciary. Under the constitution the People's Majlis chooses a single presidential nominee, who must be a Sunni Muslim male, from a list of self-announced candidates for the nomination. Would-be nominees for president are not permitted to campaign for the nomination. The final nominee is confirmed or rejected by secret ballot in a nationwide referendum. From a field of four initial candidates in 2003, the People's Majlis nominated and confirmed President Gayoom by referendum for a sixth 5-year term. Observers from the South Asian Association for Regional Cooperation said the referendum was conducted in a free and fair manner. All citizens over 21 years of age may vote.

By both law and custom, the Office of the President is the most powerful political institution in the country, and the law designates the president as the "supreme authority to propagate the tenets" of Islam.

The president's mandate to appoint 8 of the 50 members of the People's Majlis provides him strong political leverage. The elected members of the People's Majlis, who must be Muslims, serve 5-year terms. Individuals or groups are free to approach members of the People's Majlis with grievances or opinions on proposed legislation, and any member of the People's Majlis may introduce legislation.

Elections and Political Participation.—In the January 22 People's Majlis elections, citizens elected several candidates allegedly sympathetic to the opposition. Critics of the government claimed that some candidates who remained under house arrest were unable to file applications to contest the elections by the November 2004 deadline; however, at least one candidate who was in detention at the filing deadline was able to file an application, conduct a campaign, and get elected.

In May 2004 citizens elected members of the People's Special Majlis, a body convened by the president to address constitutional reforms. The Special Majlis had 50 members of the regular People's Majlis and 50 members elected or appointed specifically for this reform process. The Special Majlis met several times during the year but made no progress toward constitutional reform. After the August 12–14 demonstrations in Malé, the government suspended the People's Majlis and Special Majlis for several days.

In June the government allowed the establishment of political parties (see section 2.b.). There were 2 elected women and 4 presidentially appointed women in the 50-member People's Majlis, and there was 1 elected woman and 4 presidentially appointed women in the 50-member Special Majlis. There were two women in the cabinet. Women are not eligible to become president but may hold other government posts.

In November a by-election was held to fill three seats in the People's Majlis. While candidates were not permitted to campaign on party tickets, parties were permitted to endorse candidates.

Government Corruption and Transparency.—There were anecdotal reports that the power of the president and his family directed many decisions, including economic activities and political reform. There was an anticorruption board that investigates allegations of corruption in the government. The board meets regularly and refers cases, usually concerning monetary fraud, to the AG's office.

There are no laws that provide for access to government information.

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

Few local NGOs existed in the country. Most NGOs focused on tsunami relief and not on human rights. These NGOs reported that they exercised self-censorship.

The ICRC conducted prison visits in April and August, and the International Committee of Jurists sent an observer to opposition leader Mohamed Nasheed's pre-trial hearing. In 2003 the president created the MHRC (see sections 2.d and 3). In July the People's Majlis passed legislation defining the commission's mandate, and on August 18, the president signed the bill into law. The MHRC remains authorized to investigate allegations of human rights abuses. After the August 12–14 demonstrations, the commissioners conducted prison visits. However, due to the resignation of three commissioners, including the chairperson, the MHRC was not functioning at year's end.

Section 5. 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, sex, 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.—There were no laws regarding domestic violence against women. Both non-governmental and government sources agreed that domestic violence and other forms of violence against women were not widespread; however, there were no firm data on the extent of violence against women. There were no specific laws dealing with spousal rape. Police officials reported that they received few complaints of assaults against women. Rape and other violent crimes against women were rare.

Prostitution is illegal but occurred on a small scale.

There are no laws pertaining to sexual harassment.

Although women traditionally played a subordinate role in society, they participated in public life in growing numbers. Women constituted 39 percent of government employees. The literacy rate for women was 98 percent. A Gender Equality Council advised the government on policies to help strengthen the role of women. The minimum age of marriage for women is 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 governed in estate inheritance, granting male heirs twice the share of female heirs. A woman's testimony is equal to one-half that of a man in matters involving adultery, finance, and inheritance (see section 1.e.). Women who worked for wages received pay equal to that of men in the same positions.

Children.—Education is not compulsory, but there is universal access to free primary education. In 2004 the percentage of school-age children in school (grades one to seven) was 79 percent; (grades eight to 10) 62 percent; and (grades 11–12) 16 percent. Of the students enrolled, 49 percent were female and 51 percent male. In many instances, parents generally curtailed education for girls after the seventh grade, not allowing girls to leave their home island for another island with a secondary school.

Children's rights are incorporated into law, which specifically seeks to protect them from both physical and psychological abuse, including at the hands of teachers or parents. The Ministry of Gender and Family Development has the authority to enforce this law and received strong popular support for its efforts. The ministry reported continued child abuse during the year, including sexual abuse. Penalties for the sexual abuse of children range from as much as three years imprisonment to banishment.

Government policy provides for equal access to educational and health programs for both male and female children.

Child labor remained a problem, primarily in agriculture, fishing, and small commercial activities, including in family enterprises. There were no reports of children being employed in the industrial sector (see section 6.d.).

Trafficking in Persons.—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities.—No law specifically addresses the rights of persons with physical or mental disabilities. A 2003 government census cited 4,728 persons with disabilities; however, local NGOs claimed that there were thousands more with disabilities due to high levels of malnutrition during pregnancy. The government

has established programs and provided services for persons with disabilities, including special educational programs for hearing and visually disabled persons. 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 Gender 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 in the islands, but follow-up care was infrequent.

Other Societal Abuses and Discrimination.—The law prohibits homosexuality, and citizens did not generally accept homosexuality. The punishment for men includes banishment from 9 months to 1 year or whipping from 10 to 30 times. For women, the punishment is house arrest for nine months to one year.

There were no reports of official or societal discrimination against persons with HIV/AIDS.

Section 6. Worker Rights

a. The Right of Association.—While the law does not prohibit unions, it recognizes neither a worker's right to form or join a union nor the right to strike. In 2003 the government enacted a new law to strengthen the legal regime governing voluntary, not-for-profit associations. Small groups of similarly employed workers with mutual interests have formed associations, some of which include employers as well as employees. These associations have not acted as trade unions.

b. The Right to Organize and Bargain Collectively.—The law does not recognize workers' rights to organize and bargain collectively. Wages in the private sector are set by contract between employers and employees and are usually based on rates for similar work in the public sector.

There were no reports of efforts to form unions or of strikes during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law does not prohibit forced or compulsory labor, including by children, but there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment.—The law bars children less than 14 years of age from paid or hazardous work. Guidelines prohibit government employment of children under 18 and employment in hazardous jobs such as construction, carpentry, welding, and driving.

According to the International Confederation of Free Trade Unions, child labor remained a problem in agriculture, fishing, and small commercial activities, including in family enterprises. Working hours for children 14 years or older are not limited specifically by statute. A unit for children's rights in the Ministry of Gender, Family Development and Social Security is responsible for monitoring compliance with the child labor regulations, but it was not charged with their enforcement. The Ministry of Employment and Labor has an employment relations and compliance unit that deals with child labor problems.

e. Acceptable Conditions of Work.—There was no national minimum wage for the private sector, although the government has established wage floors for government employment. These wage floors provided a decent standard of living for a worker and family. Given the severe shortage of labor, employers offered competitive pay and conditions to attract skilled workers.

There are no statutory provisions for hours of work, but the regulations require that a work contract specify the normal work and overtime hours on a weekly or monthly basis. The public sector provides a 7-hour day and a 5-day workweek.

The Ministry of Employment and Labor's employment relations and compliance unit resolves wage and labor disputes, visits worksites, and enforces labor regulations. There are no national laws governing health and safety conditions. There are regulatory requirements in certain industries such as construction and transport that employers provide a safe working environment and ensure the observance of safety measures. It was unclear whether workers could remove themselves from unsafe working conditions without risking the loss of their jobs.

NEPAL

Nepal is a constitutional monarchy with a parliamentary form of government and a population of approximately 25 million. On February 1, King Gyanendra dismissed the cabinet, declared a state of emergency, and assumed direct control of the government under the emergency powers article of the constitution, citing the need

to fight a Maoist insurgency. The state of emergency was lifted on April 29. Prior to February 1, the king ruled through a council of ministers that was under his chairmanship. International observers considered the most recent elections, the 1999 parliamentary elections, to be generally free and fair; however, elections have not been held since 1999 because of, according to the government, security concerns related to the Maoist insurgency, which has intensified since its inception in 1996. While the king generally maintained effective control of the security forces, elements of the security forces often acted independently of government authority.

The government's poor human rights record worsened and the government continued to commit many serious abuses, both during and after the state of emergency that suspended all fundamental rights except for habeas corpus. Members of the security forces and the Maoist insurgents committed numerous grave human rights abuses during the year. The following human rights problems were reported:

- obstruction of citizens' right to change the government
- arbitrary and unlawful lethal force, including torture
- vigilantism
- disappearances
- poor prison and detention conditions
- arbitrary arrest and lengthy pretrial detention
- impunity for security forces
- compromised independence of judiciary
- suspension of news broadcasts
- restrictions on the Tibetan community
- restrictions on internal travel
- discrimination against persons with disabilities and lower castes
- violence against women and trafficking in women and girls
- abuses of child labor
- restriction of worker's rights

In May the government welcomed the opening of the UN Office of the High Commissioner for Human Rights (OHCHR) in Kathmandu. Both OHCHR and the National Human Rights Commission (NHRC) reported improved access to detention centers and progress in locating persons listed as disappeared. In September the Supreme Court ruled that, unlike in previous years, children of unmarried women could claim citizenship under the 1990 constitution. In November the Supreme Court ruled that, unlike in previous years, women did not need permission from their husband or parents to get a passport. In December the Supreme Court ruled that women no longer needed to get the permission of their husband, son, or parents if they wished to sell or relinquish ownership of property.

During the year Maoists continued their campaign of torturing, killing, bombing, conscripting children, kidnapping, extorting, forcing closures of schools and businesses, and committing other serious and gross human rights abuses. Maoist impunity remained a significant problem. A local nongovernmental organization (NGO), Informal Sector Service Center (INSEC), estimated that during the year civilian fighting killed 1,630 persons, including 134 members of the police and Armed Police Force (APF); 203 members of the Royal Nepalese Army (RNA); 599 Maoists; and 267 civilians, including at least 30 students. Maoist actions limited press freedom and the right of assembly, constrained religious communities, prevented free movement, and stopped hundreds of thousands of children from receiving an education. Since the beginning of the insurgency in 1996, the Maoists had not credibly investigated human rights abuses committed by their forces, despite their claims to respect and uphold international conventions on human rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—During the year security forces continued to commit arbitrary and unlawful killings. According to INSEC, security forces killed 964 suspected Maoists during the year. Additionally, RNA soldiers killed numerous others, including those in custody who were tortured, according to NGO sources (see section 1.c.). During the year the RNA's human rights investigative cell conducted nine new investigations. In most cases of arbitrary or unlawful killings, the security forces claimed the victims were Maoists.

On May 2, security forces shot and killed Rupen Rai in Ilam District. Witnesses claimed that security forces could have taken Rai into custody after the first shot, but they did not.

Human rights groups expressed concerns about a number of cases in which security forces claimed that suspects committed suicide while in government custody. For example on May 27, the RNA claimed that a Maoist insurgent, Dorje Sherpa, committed suicide by hanging himself inside his cell with a shoelace at Singha Durbar RNA barracks in Kathmandu.

Security forces occasionally used lethal force when attempting to question suspects. On July 3, plainclothes RNA forces in Kamatoli Bazaar, Jhapa, shot and killed Rama Adhikari, a farmer and mother of three children, after Maoists forced her to provide them with food. The RNA claimed she had a pistol, and threatened not to return Adhikari's body to her family unless her husband and neighbors signed a paper that confirmed she had a weapon. The RNA formed a court of inquiry to look into the matter; the NHRC recommended compensation to the victim's family.

Security forces used excessive force against persons in custody, resulting in deaths during the year. On July 6, police shot and killed Laxmi Yadab, Hari Prasad Yadab, Kari Kapar, and Kari Saha of Dhanusha, Dholbajatol, while in custody. Police stated that the four were Maoist cadres killed in crossfire. At year's end no action was taken to investigate the case, and none was expected.

On December 14, an RNA soldier fired into a crowd in Nagarkot, killing 11 civilians and injuring 19 others before killing himself. A high level judicial team appointed by the government found that the soldier acted alone and awarded immediate compensation to the victims.

There were no developments in the 2004 killings of Rajendra Paneru, Ganesh Syangtang, Subhadra Chaulagain, Reena Rasaili, Kishori Patel Kurmi, Suresh Raut Patel, Govinda Poudel, or for any victims of the February 2004 raid in Ward 4 Handikhola VDC.

On March 10, an RNA court-martial sentenced an RNA major to two years in jail and dismissed him from the army because of his involvement in the 2003 Ramechhap killing of Maoist detainees.

In September an RNA court-martial sentenced an RNA colonel and two captains for serious lapses in connection with the February 2004 killing of Maina Sunuwar in Kavre District. The RNA colonel was the highest-ranking officer court-martialed in a case tied to human rights abuses.

During the year there were no reports of injuries or deaths from RNA-planted landmines protecting military installations and infrastructure. The Maoists used landmines in and alongside roads, killing both security forces and civilians (see section 1.g.).

While Maoist rebels did not kill or injure anyone in Kathmandu during the year, they repeatedly clashed with security forces and engaged in targeted killing of security forces, government officials, and civilians. INSEC reported that insurgents killed 267 civilians during the year (see section 1.g.).

On August 3, Amnesty International (AI) reported that government-backed vigilante groups were increasing the level of terror and violence experienced by the civilian population. For example on March 13, a mob attacked and killed 12 Maoist elite in Kapilvastu District. A local human rights lawyer said that violence between vigilantes and Maoists resulted in 36 deaths, the destruction of 600 houses, and the flight of 20 thousand persons to the Indian border. On July 25, villagers in Dhading district killed seven Maoist rebels. On August 14, villagers killed at least five Maoists in Banke District after they abducted an elderly person. The government did not penalize villagers who were involved in vigilante killings.

b. Disappearance.—Under the 2004 Terrorist and Destructive Activities Ordinance (TADO), suspects must appear before a court within 60 days of their arrest, and the government can hold suspects in preventive detention for 360 days. Nevertheless, during the year there were disappearances of persons while in the custody of security forces. In some cases individuals disappeared, and their whereabouts remained unknown until much later when the government acknowledged that the individuals were detained under TADO (see section 1.d.).

On February 15, the military confirmed that it held Krishna Khatri Chhetri, vice president of the banned All Nepal National Independent Student Union (Revolutionary) (ANNISU-R), due to its affiliation with the Maoists. Plainclothes RNA forces took Chhetri into custody in 2003 and detained him incommunicado for approximately two years. In May 2004 the Supreme Court ordered the NHRC to investigate the case, but when NHRC representatives visited the army barracks, the RNA produced three other detainees who claimed Chhetri was not in custody. The RNA confirmed his whereabouts only after the Supreme Court again ordered it to

do so. The court ordered Chhetri released on September 22; however, police re-arrested him on the Supreme Court premises, and he remained in detention at year's end.

On June 23, the day after the government told the Supreme Court that Nawaraj Subedi, General Secretary of the People's Front Nepal Party, was not in its custody, the NHRC found him in the Lalitpur District Police Office. According to the NHRC, Subedi had been in police custody for two months. No action was taken against the government, and none was expected.

On September 4, two 15-year-old girls, Radha Bhusal—first arrested on April 17—and Geeta Nepali—first arrested on May 10—were rearrested after the appellate court ordered their release. Security forces held the youths incommunicado, and allegedly beat and sexually harassed them as suspected Maoists from the date of their initial arrest until June 17 when the government transferred them to Kapilvastu prison. Police denied any knowledge of their re-arrest.

INSEC data of unresolved disappearances lists the government as responsible for the disappearance of 1,305 persons from the beginning of the insurgency in 1996 through November 30. The Maoists, according to INSEC figures, were responsible for the abduction of 46,794 persons, and the disappearance of 8,715 persons during the year. By year's end the government had not prosecuted government officials or Maoists for their involvement in disappearances, and no prosecutions were expected.

The NHRC reported that while it had information that the government had arrested 1,697 people from 1996 until December 10 of this year, the government had yet to confirm custody of 901 of those people. The NHRC reported that 290 persons were in Maoist custody.

In March Human Rights Watch (HRW) released a report documenting 200 enforced disappearances perpetrated by the RNA, APF, and police between 1998 and 2004. In 28 of the documented cases, families of the disappeared had reliable information that security forces killed their relatives after they were taken into custody but, with only a single exception, the deaths were never officially confirmed.

The RNA set up a national registry of detainees and cooperated with the United National Working Group on Enforced or Involuntary Disappearances (WGEID) to resolve the status of 106 cases from 2004. The RNA definitively answered 98 cases and was investigating 8 other cases at year's end. The RNA released 54 persons and found that 4 persons died, 3 on the battlefield and 1 in custody. The RNA initiated a court-martial on the death-in-custody case.

The government's five-member committee, formed in 2004 to investigate disappearance claims, released reports in February, April, June, and August, cumulatively locating 580 persons previously listed as disappeared.

There were no developments in the 2004 disappearance of Hari Krishna Adhikari.

Disappearances at the hands of the Maoists continued to be a significant problem (see section 1.g.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture, beating, and mutilation; however, security forces regularly engaged in such activities to punish suspects or to extract confessions. The Center for Victims of Torture (CVICT), a local NGO, reported that blindfolding and beating the soles of feet were commonly used methods. The government failed to conduct thorough and independent investigations of reports of security force brutality and generally did not take significant disciplinary action against those involved. Citizens were afraid to bring cases against the police or the army for fear of reprisals.

On September 16, the UN Special Rapporteur on Torture concluded that the police, APF, and RNA systematically practiced torture and ill-treatment in order to extract confessions and to obtain intelligence against Maoists. The government insisted it was committed to preventing human rights abuses and indicated that disciplinary action had been taken against the guilty. The RNA stated it had looked into 179 cases of alleged torture presented by the UN. The NHRC has not received information regarding disciplinary action taken by the RNA in these cases.

The law provides for compensation for victims of torture. According to CVICT, 9 persons filed for compensation under the act during the year, and of the 184 cases filed since the act was created in 1996, the court made a decision to award compensation in 26 cases, but at year's end, compensated only one claimant.

On July 22, the RNA, in a court martial, found six RNA soldiers guilty of sexual-related misconduct while on peacekeeping duty in the Democratic Republic of Congo. All offenders received 3-month prison sentences and a reduction in rank.

On July 24, six armed plainclothes security forces took Lokendra Khadka from his house in Kathmandu with his hands tied behind his back and a hood over his head. Security forces threatened to kill him and used water torture, beatings, and electric shocks to force him to admit to being a Maoist.

On September 12, Shiv Bohora, 23, acting president of the Nepal Student Union at Mahendra Ratna Campus, Kathmandu, claimed that police beat him with batons, boots, and the butts of their rifles, causing him to lose control of his bladder and bowels, and ultimately lose consciousness after he was arrested for throwing stones in a campus protest. Police were investigating the incident, and the case remained open at year's end.

On September 12, Sunsari district court handed down a verdict against three soldiers charged with raping a 16-year-old girl in November 2004. The RNA turned the soldiers over to the civilian district court for trial.

There were no developments in the 2004 abuse case of two Tibetan refugee girls in Lukla.

There were numerous allegations of torture by Maoists insurgents (see section 1.g.).

Prison and Detention Center Conditions.—Prison conditions were poor and did not meet international standards. According to the Department of Prisons, of the 7,135 persons in jail, 3,189 had been convicted of a crime and 3,946 were awaiting trial.

On September 16, the UN Special Rapporteur on Torture highlighted overcrowding and poor sanitation of prisons and detention centers. He described the conditions in Hanumandhoka police office, Kathmandu, as inhuman. Cells were filthy, poorly ventilated, and overcrowded, with 12 persons in a 3-meter by 4-meter cell; there was no provision for leisure activities; and there were several 14-year-old boys detained among adults.

Due to a lack of adequate juvenile detention facilities, children sometimes were incarcerated with adults as criminal offenders or were allowed to remain in jails with their incarcerated parents due to lack of other available options (see section 4).

The government generally permitted the NHRC and OHCHR to make unannounced visits to prisons and detainees in army and police custody. The UN Special Rapporteur on Torture reported unhindered access to places of detention during his visit; however, the International Committee of the Red Cross (ICRC) suspended visits in April citing access problems.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention, but arbitrary arrest continued during the year.

Role of the Police and Security Apparatus.—The RNA exercised responsibility for security in the country under an operational structure referred to as the “unified command,” which included elements of the police and the APF. Chief District Officers (CDOs), the highest-ranking civil servant in each of the country's 75 districts, have wide discretion in maintaining law and order. Both the police and RNA have human rights cells to promote human rights and to investigate cases of abuse; however, corruption and impunity remained problems. Police were generally unarmed and had the role of preventing and investigating non-terrorist related criminal behavior, while the APF were armed and deployed as riot control at checkpoints or with RNA units directly engaged against Maoist insurgents.

In December the RNA reported that since 2001, when the RNA began to engage with the Maoists, the RNA investigated 163 cases of abuse. Of the 163, 51 cases resulted in prison sentences for 6 months to 10 years; 34 cases resulted in discharge from service; 13 cases resulted in demotion; 18 resulted in forfeiture of grade or promotion; 46 resulted in warnings in personnel files; and 1 case was sent to civil court.

Arrest and Detention.—The law stipulates that, except in cases involving suspected security and narcotics violations, the authorities must obtain a warrant for arrest, arraign or release a suspect within 24 hours of arrest, and file a case in court within 7 days of arrest, but security forces regularly violated these provisions (see section 1.f.).

If the court upholds a detention, the law authorizes the police to hold the suspect for 25 days to complete an investigation, with a possible extension of 7 days. However, 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 not held under special antiterrorist legislation have the legal right to receive visits by family members, and they are permitted access to lawyers once authorities file charges. In practice the police granted access to prisoners on a basis that varied from prison to prison; however, the government consistently denied Maoist suspects visits from family members and lawyers. There is a system of bail, but bonds were too expensive for most citizens. Due to court backlogs, a slow appeals process, and poor access to legal representation, pretrial detention often exceeded the period to which persons subsequently were sentenced after a trial and

conviction. Human rights groups alleged that arrest without a warrant, prolonged detention without trial, and police torture were especially evident in heavily Maoist-affected areas (see section 1.c.).

Under the Public Security Act, security forces may detain persons who allegedly threatened 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 up to six months without charging them with a crime. The detention period could be extended after submitting written notices 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. The government commonly applied this act in cases involving suspected Maoists and political and civil rights activists (see section 1.b.). Human rights groups alleged that the security forces used arbitrary arrest and detention to intimidate communities considered sympathetic to the Maoists.

Between February 1 and the end of the state of emergency on April 29, the NHRC estimated that police arrested and detained more than 3,284 political protestors. The government arrested 25 political leaders and put 18 other prominent politicians under house arrest without due process. The NHRC reported that the police prevented them access to persons under house arrest four times. The government released all political detainees and ended all house arrests by the end of June.

Other laws, including the Public Offenses Act, permit detention without charge. This act, and its many amendments, 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 arrested many citizens involved in public disturbances, rioting, and vandalism and detained them for short periods without charge. After the lifting of the state of emergency, the government routinely arrested journalists, civil society members, and politicians for trying to enter restricted areas to protest. Police released most within 24 hours of their arrest.

On September 13, police arrested over 529 leaders and party cadres for trying to enter a prohibited area in Kathmandu to protest the lack of democracy. Police released all of those detained the following morning (see section 2.b.).

Authorities occasionally detained journalists on suspicion of having ties to or sympathy for the Maoists (see section 2.a.).

There were reports of political detainees during the year, especially during the state of emergency. On March 14, police arrested over 750 persons belonging to the 5 main political parties that were demonstrating against the February 1 royal proclamation. All were released by year's end.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, but courts remained vulnerable to political pressure. Additionally, citizens bribed judges and Maoists intimidated them.

The Supreme Court has the right to review the constitutionality of legislation passed by parliament. Appellate and district courts were increasingly independent, although sometimes they remained susceptible to political pressures.

The judicial system consists of three levels: district courts, appellate courts, and the Supreme Court. The king appoints judges on the recommendation of the judicial council, a constitutional body chaired by the chief justice. 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 women and girls, crimes against the state, corruption, and crimes related to foreign currency. The appellate courts hear cases against suspects charged with violations under the TADO.

Delays in the administration of justice were a severe problem. As of July 15, the Supreme Court reported a backlog of 16,293 cases, the appellate courts had 10,157, and district courts had 25,699.

Trial Procedures.—While 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, except in some security and customs cases, these rights were not equally applied. 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, but the king may grant pardons. The king also may suspend, commute, or remit any sentence.

The law provides prisoners 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. Consequently, those persons

unaware of their rights may be deprived of legal representation. Police often denied suspects detained under TADO access to both attorneys and family members.

According to the Nepal Bar Association (NBA), authorities released lawyer Sujindra Maharjan from custody in December 2004. While no definitive proof was available, the NBA reported that former prime minister K.P. Bhattarai told them that lawyer Rajendra Dhakal, arrested in Gorkha District in 1999, was dead. At year's end there was no investigation into Dhakal's disappearance.

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 for cases of rape. Military courts cannot try civilians for crimes, even crimes involving the military services; these cases are handled in civilian courts.

The 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.

TADO cases are heard in the appellate courts. Suspects may appeal verdicts to the Supreme Court.

In districts where Maoists gained some measure of administrative control, they have set up "people's courts." These courts did not generally have due process and generally decided only civil cases.

Political Prisoners.—There were no government reported political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—During the state of emergency, the king suspended the right to privacy. The government suspended all land and cell phone lines and the Internet, allegedly for security concerns. The government reactivated landline phone service on February 7, postpaid cell phones on May 1, and pre-paid cell phones on August 22. Nevertheless, human rights activists and politicians said that authorities monitored and blocked Internet and cell phone service after the lifting of the state of emergency at the end of April (see section 2.a.).

Security forces routinely entered and searched houses without warrants. Under TADO the security forces may conduct searches as long as they inform the subject of the search in advance. 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. However, Maoists regularly forced civilians to flee their homes in order to escape extortion, recruitment, or retaliation.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—During the year there was significant internal conflict between the government and Maoist insurgents. Both parties injured and killed numerous civilians. On May 16, 12 armed Maoist cadres in civilian dress abducted and killed Shanker Sarki, an RNA soldier who had returned home to Kailali District from Congo where he had served on a UN peacekeeping force.

On April 30, security personnel entered a university campus in Kanchanpur District and shot three students who were associated with the leftist All Nepal National Free Students Union. The wounded students were later taken to Kathmandu Army Hospital for treatment, and the NHRC recommended that the government provide free medical treatment and the equivalent of \$704 (approximately 50 thousand NPR) compensation to each student. The government had not compensated the victims at year's end.

On June 13, in Dhangadhi, Kailali District in the far-west, suspected Maoists raped and killed the wives of three APF personnel, also killing a 1-year-old boy and two other civilians. The Maoists most often targeted political leaders, local elites, teachers, local-level civil servants, and suspected informers for harassment and attack (see section 1.a.).

On June 19, CPN-M Chairman Prachanda directed party members to avoid physical action against any unarmed persons, even if they were criminals. However, on June 21, Maoists killed four unarmed persons, including two Nepali congress (democratic) political party cadres in Siraha District.

On September 13, notwithstanding their 3-month unilateral ceasefire, Maoists killed Navaraj Thapaliya in Gorkha District after abducting him on September 11.

Maoists were also responsible for numerous abductions during the year. INSEC reported that between February 13, 1996 and the end of the year, Maoists abducted 46,759 persons. The whereabouts of over 8,693 of those abducted remained unknown.

During the year Maoists expanded a campaign of abducting civilians, primarily students and teachers, allegedly for indoctrination programs and forced paramilitary

training. From February 1 to December 6, Maoists abducted 11,397 students and 2,810 teachers from schools and bombed over a dozen schools across the country.

Maoists used landmines in and alongside roads to attack police, military, and government vehicles, injuring numerous civilians (see section 1.a.).

On April 10, a landmine blew up a passenger bus carrying security forces, killing at least 5 civilians, including a minor, and wounded 27 others in Sarlahi District in the central region. On June 6, Maoists killed 39 persons, including 3 RNA personnel, after they ignited a landmine under a passing passenger bus in the Madi area of Chitwan District in the central region. Approximately 70 others were wounded in the attack. On June 10, Maoists killed six security personnel and two civilians when they attacked a passenger bus with a landmine in Kavre District.

The ICRC on some occasions was able to convince the Maoists to release captured and detained individuals into ICRC custody. On September 14, Maoists handed 60 RNA soldiers captured on August 7 to the ICRC.

Maoists used civilians, including children, as human shields in wave attacks against fortified military positions. Both sides in the conflict used children as informants (see section 5).

On February 14, Maoist insurgents destroyed six schools in Rukum District, accusing the students and teachers of supporting the local administration. On February 20, Maoists detonated bombs in five schools in Banke District in the mid-western region in retribution for the schools defying a Maoist-called "educational strike." The militants also exploded a powerful bomb at the main gate of Nepalgunj Medical College on the same day, wounding three civilians.

Since February 25, insurgents forced over 370 schools to close indefinitely, affecting approximately 100 thousand students in Bardia District.

On February 26, rebels set fire to an examination center in Taplejung District and on April 2, Maoists bombed another examination center in Dang District.

On April 14, hundreds of private day and boarding schools throughout the country closed after the ANNISU-R, the student wing of the Maoists, called an educational strike. The ANNISU-R demanded, often violently, the halving of tuition, curriculum changes, and banning the singing of the national anthem. In some areas Maoists demanded that schools follow a calendar devoid of religious holidays (see section 2.c.).

In May Maoists forced more than 200 schools to close in Baglung District, and 150 schools in Palpa District, after the rebels announced that they would recruit students for the purpose of indoctrination and militia training. According to local CDOs, the schools in these districts reopened within two weeks of their closure.

The Maoists regularly blocked relief organizations from reaching civilian populations in order to force NGOs to sign agreements with Maoist regional committees.

Maoists regularly extorted money from businesses and workers, as well as NGOs. When individuals or companies refused or were unable to pay, Maoist recrimination frequently was violent. For example on August 17, Maoists bombed and set fire to Jyoti Spinning Mills, destroying machinery and storehouses containing raw and processed material after the company refused to pay Maoist extortion demands.

Frequent Maoist-declared closures involving the stoppage of work in economic sectors, including transportation, were enforced through violence, which caused particular hardship to workers.

In July and August the Maoist-affiliated labor union, the All Nepal Federation of Trade Unions, imposed a transportation strike and closed tea estates in parts of the eastern region, causing losses of \$15 thousand (approximately 1 million NPR) a day, leaving 25 thousand daily laborers jobless, and causing shortages in the marketplace (see section 6).

Maoists regularly forced family members of those serving in the police or army, and thousands of civilians, including political party activists, to flee their homes (see sections 1.a., 1.f., and 2.d.).

In April Maoists shot and attacked Hari Prasad Gautam, 70, with swords, forcing him to flee Ramechhap District when he failed to capitulate to their extortion demands. Maoists reportedly killed his cattle and set his house afire. The police saved his life by arranging a rescue flight to Kathmandu.

On July 6, armed Maoists forcibly expelled Rukimi Gurung and her husband from their house in Panchthar District, telling the couple to live with their son who had recently joined the RNA. The Maoists similarly locked up the houses of over 30 security personnel in surrounding villages.

On July 25, Refugees International reported that during the year many citizens migrated to India in order to avoid the forced conscription policy enforced by the Maoists, requiring each family to provide one child to the Maoists.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press; however, the government imposed restrictions on these rights, and these restrictions increased during the state of emergency and afterward. The law prohibits speech and writing that would threaten the sovereignty and integrity of the kingdom; disturb the harmonious relations among persons of different castes or communities; promote sedition, defamation, contempt of court, or crime; or contradict decent public behavior or morality.

On October 21, the government promulgated a new media ordinance containing restrictions on the media. According to a December report by the International Commission of Jurists, a Geneva-based international rule of law and human rights NGO, the ordinance entrenches a ban on news reporting by private FM radio stations, includes vague and arbitrary prohibitions on content, such as extending the prohibition on criticism of the king to other members of the royal family, restricts dissemination of news from foreign sources, enables a government-controlled press council to recommend to the government revoking a journalist's press credential, and places new restrictions on cross-media ownership that effectively targets only the Kantipur media organization, a consistent government critic that owns newspaper, television and radio outlets. Following the issuance of the ordinance, armed authorities raided Kantipur FM and seized satellite uplinking equipment. On November 27, authorities raided Sagarmatha FM and briefly arrested five staffers and also seized station equipment. The authorities later returned seized equipment to Sagarmatha and Kantipur.

Also on October 21, the government issued a new Election Code of Conduct that seeks to limit media freedom in covering elections. For instance, the code restricts media from publishing a candidate's attack against an opponent and requires that speeches by party leaders or candidates be published verbatim. The Maoists imposed restrictions on free press through intimidation and the killing of journalists.

In addition, The Press and Publications Act prohibits publication of material that, among other things, promotes disrespect toward the king or the royal family; undermines security, peace, order, the dignity of the king, or the integrity or sovereignty of the kingdom; creates animosity among persons of different castes and religions; or adversely affects the good conduct or morality of the public. There were no reports of prosecutions under the act during the year, although in August the information and communications minister publicly threatened unspecified action against *The Kathmandu Post* and *Kantipur*, respectively sister English and Nepali newspapers (and members of the Kantipur media group), for publishing a front-page cartoon lampooning the monarchy. On several occasions police and CDOs interrogated newspaper editors about certain articles they had published, and threatened them with imprisonment.

The act also provides a basis for banning foreign publications, although foreign publications were widely available, and none were banned or censored during the year. Foreign print media operating in and reporting on the country were allowed to operate freely.

The independent media were active and expressed a wide variety of views, although opinions against the royal proclamation were not printed for several weeks after the imposition of the state of emergency. Hundreds of independent vernacular and English-language newspapers were available, representing various political points of view. The government-owned *Gorkhapatra*, a Nepali-language daily, and *The Rising Nepal*, the third-largest English-language daily, reflected government policy.

Police arrested numerous journalists, many for protesting in favor of press freedom in restricted areas. Police released most journalists within 24 hours of their arrest. On March 7, police arrested Kanak Mani Dixit and kept him in custody for four hours, inquiring about his recent trip to Delhi and asking if he had tried to meet Maoist leaders while there. On June 8, police detained more than 50 journalists conducting a peaceful rally demanding press freedom. They were charged with violating a prohibition against unlawful assembly in the capital. The government released them on June 9. In July the International Press Freedom and Freedom of Expression Mission to Nepal estimated that 1 thousand of the 10 thousand people who worked in the media sector before February 1 had lost their jobs due to decreased circulation and the drop in government ads in private media critical of the government. In August government-owned media fired approximately 70 journalists, allegedly for their political views. According to INSEC, Maoists killed 14 journalists since 1996, although authorities reported no killings during the year.

Beginning in February at the onset of the state of emergency, the government restricted publication of news against the king's proclamation by sending armed security forces to major media houses. Some of these officials reviewed and censored edi-

torial products. This physical government presence at daily newspapers lasted approximately one week, while some weekly publications endured official visitors for approximately three weeks.

During the state of emergency, the government intimidated some media outlets to practice self-censorship. On February 5, *The Kathmandu Post* published an editorial that discussed socks, in protest of the restrictions on press freedom.

On February 23, the Kathmandu CDO summoned editors of five vernacular weeklies to inquire about blank spaces in their publications to protest government censorship.

After the lifting of the state of emergency, journalists in Kathmandu reported without significant self-censorship, although government restrictions imposed on February 1 banning reporting that encouraged the Maoists or that was contrary to the “spirit of the Royal proclamation of February 1” remained in place. Following the king’s February 1 proclamation, the government stopped advertising in papers whose editorial views did not support the king, affecting revenue of some papers.

The Broadcast Act allows private television and FM radio broadcasts. The government owned two television stations—*Nepal TV* and *Nepal TV Metro*—and controlled one radio station that broadcast both shortwave AM and FM signals. There were 47 independent radio stations that reached over 90 percent of the population. Until February 1, privately owned FM stations were permitted to broadcast their own independently collected news, but they were required to broadcast government news at least once daily; however, from February 1 to August 11, the government prohibited all FM stations from broadcasting news despite a 1999 Supreme Court ruling giving broadcast journalism equal status to the print media. Stations were able to broadcast information and entertainment programs. On August 11, the Supreme Court issued a stay order preventing the government from implementing a decree to close private radio stations broadcasting news. The Supreme Court’s ruling allowed the FM radio stations to resume broadcast news while awaiting a final verdict, and 17 stations resumed airing news on August 11.

The government banned airing of foreign TV and radio channels except BBC, Fox News, and CNN following February’s royal takeover. On June 12, the ban was lifted for all channels except the New Delhi-based *Nepali One*, for an alleged relationship between one of the channel’s reporters and the Maoists. The government did not otherwise restrict access to foreign radio broadcasts, private cable networks, or the purchase of television satellite dishes. The government censored broadcasts of the BBC English radio service, replacing its 15-minute news service with music. *BBC Nepali* on shortwave, however, generally continued to be available.

There were three licensed private television stations operating in the country. In addition to entertainment programming, commentary critical of government policies aired during publicly broadcast discussion programs. Indian, Chinese, and Pakistani television broadcasts were readily available in many parts of the country.

On September 19, police in the mid-western district of Dailekh used TADO authority to arrest a reporter, Harihar Rathore, from a Kantipur daily, accusing him of being a Maoist accomplice. Rathore refuted such allegations, saying he was targeted both by the security personnel and the Maoists for disseminating news based on fact. Over a dozen journalists left the district alleging that local Maoist and government authorities were similarly threatening them. On September 21, the Federation of Nepalese Journalists (FNJ) and the International Federation of Journalists (IFJ) successfully negotiated Rathore’s release.

On October 4, imprisoned *Rastriya Swabhimani* reporter Maheshwar Pahari died of typhoid while in custody after being denied proper medical treatment by authorities. According to the Committee to Protect Journalists, Pahari was held under an antiterrorism law that was used to jail journalists since it was introduced in 2001. Authorities released and re-arrested Pahari four times after January 2004 in order to comply with the law, which limits detention without trial to six months. In May Pahari was released from jail and arrested before he could leave the compound (see section 1.a.).

Human rights activists and politicians reported blocked or monitored Internet service during and after the lifting of the state of emergency. The government blocked more than 20 Web sites, including the Maoist Web site, that were hosted in other countries and were not supportive of the king (see section 1.f.).

There were no government efforts to curtail academic freedom during the year. The Maoists did not allow freedom of expression and tightly restricted print and broadcast media. Maoists threatened private FM radio stations to force them to broadcast Maoist propaganda, and the Maoists themselves operated small, mobile FM radio stations that broadcast propaganda.

On January 3, in Rukum District, Maoists confiscated the belongings of a BBC-affiliated journalist and a French reporter, accused them of being spies, and threatened to kill them unless they left the area.

On May 18, Maoists attacked and damaged a transmission station of Nepal Television (NTV) in Palpa District.

On July 10, Maoists released Som Sharma, an Ilam-based journalist after abducting him and holding him for 56 days. In the same district, Maoists released a Radio Nepal correspondent, Umesh Gurung, from house arrest. The FNJ negotiated with the Maoists for their release.

Maoist groups curtailed academic freedom, regularly extorted money from private schools and teachers, and inflicted punishment on school officials. According to INSEC, from January 1 to December 6, Maoists abducted 11,397 students and 2,810 teachers from schools for indoctrination programs, and bombed over a dozen schools across the country (see section 1.g.). Despite a 3-month ceasefire, the country's media continued to report on instances of abduction, extortion, and intimidation by Maoists outside the Kathmandu valley.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom of assembly and association; however, the government restricted this right in practice. On February 1, and continuing after the state of emergency was lifted, the government continued to restrict freedom of assembly, claiming it was necessary to prevent the undermining of the sovereignty and integrity of the state or for disturbing law and order.

Freedom of Assembly.—The law provides for freedom of assembly; although some large public demonstrations were common in parts of the country, the government restricted demonstrations both during and after the state of emergency. During the year some protests turned violent, and police sometimes used baton charges to break up demonstrations.

On August 25, police controlling a student demonstration in Rajbiraj fired shots into the crowd, injuring a passer-by who was not involved in the protest. The police claimed a protestor threw rocks at the officer, causing his gun to go off accidentally. Students maintained that the firing was not accidental. Police were investigating the incident, but there were no developments at year's end.

On September 18, local human rights organizations expressed concern over indiscriminate police brutality during demonstrations organized by political parties. They claimed that police illegally entered private houses, charged at peaceful protestors with batons, and excessively used tear gas. The organizations stated that police arrested 1,563 persons between September 4 and 14 and that the organizations found 248 persons injured, including demonstrators and police during the protest.

On September 14, Kathmandu police fired teargas at protestors, causing 12 primary students in a nearby school to become unconscious. In the same incident, police chased demonstrators through a hospital, wounding six, before a doctor in an operating room told the police to leave.

On September 20, OHCHR issued a statement protesting the government's announcement of new areas outside the Kathmandu valley where demonstrations would no longer be permitted. OHCHR also registered concern over reports of excessive force by the police in their bid to quell public demonstrations and expressed concern that the demonstrators themselves were resorting to violence.

Throughout the year local authorities in Kathmandu prevented the Tibetan community from holding public celebrations, including those to venerate the Dalai Lama (see section 2.c.).

During the year Maoists deprived citizens of the right to assembly. On July 26, Maoists detonated a pipe bomb at a public gathering that Maoists held in Doti District, wounding 16. Enraged villagers handed four Maoists over to security forces but, fearing Maoist reprisals, almost all of the villagers, including women, children, and the elderly, fled the village for district headquarters or the nearby jungle (see section 1.a.).

Freedom of Association.—The law provides for freedom of association, although the government restricted these rights during and after the state of emergency which began on February 1. The government claimed it restricted freedom of association in order to protect the sovereignty and integrity of the state.

Government officials refused to register any organizations whose titles contain the words, "Jesus, Bible, Christian, or church." (see section 2.c.) These groups noted that, unless registered, such organization could not own land, important for establishing churches or burial of members. These groups have been able to register their organizations and practice their faith as NGOs.

c. Freedom of Religion.—The law provides for freedom of religion and permits the practice of all religions, but members of minority religions occasionally complained

of police harassment. Some Christian groups were concerned that the ban on proselytizing limited the expression of non-Hindu religious belief. The law describes the country as a Hindu kingdom, although it does not establish Hinduism as the state religion.

The Press and Publications Act prohibits the publication of materials that create animosity among persons of different castes or religions.

A conviction for conversion or proselytizing can result in fines or imprisonment, or in the case of foreigners, expulsion from the country; however, there were no incidents of arrest for conversion or proselytizing during the year.

On September 2, police in Kathmandu prohibited Tibetans celebrating Tibetan Democracy Day from carrying pictures of the Dalai Lama in public, a restriction that has been imposed since 2002. The government restricted to private places (school grounds or inside monasteries) all local Tibetan celebrations (Tibetan New Year, the Dalai Lama's birthday, Democracy Day, and International Human Rights Day/Celebration of the Dalai Lama receiving the Nobel Peace Prize).

Societal Abuses and Discrimination.—Although prohibited by law, caste discrimination was widely practiced at Hindu temples in rural areas and strongly influenced society. After a group of dalit women visited a Hindu temple in Siraha District on October 3, villagers prohibited them from entering shops or using public facilities available in the village. The villagers allowed the dalit women to shop after a few days, but continued to prohibit the women from revisiting the Hindu temple. No action was taken against the villagers.

Beginning October 16, some upper caste locals in Sarakpura VDC in Saptari District imposed a blockade on a dalit hamlet, to punish the latter for not playing drums during a local fete. Six dalit families were prohibited from using the public path and denied access to rice mills, medical shops, and public taps. A compromise was reached after a few days, and the dalits resumed playing drums during festivals.

There were regular reports of Maoists enforcing a "people's calendar" in schools that did not allow for religious holidays. According to one Christian organization, Maoists demanded the use of church grounds for their indoctrination programs in the eastern region. Maoists forced churches to close after the churches refused to meet their demands.

There are no known Jewish adherents in the country, and there were no known anti-Semitic acts.

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

d. Freedom of Movement Within The Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government suspended freedom of movement within the kingdom under the state of emergency. The government cancelled all local and international flights on February 1 and 2 and prevented many prominent human rights activists and politicians from traveling within, or in some cases leaving, the country, even after the lifting of the state of emergency. INSEC documented 40 cases where the government barred citizens from leaving the Kathmandu valley between February 5 and June 2.

On February 25, security forces prevented Laxman K.C., Vice chairman of the Afro-Asian People's Solidarity Organization, from leaving Kathmandu to participate in a conference in Cairo, Egypt.

On February 26, security forces prevented Subodh Raj Pyakurel, Chairman of INSEC, from leaving Kathmandu in order to conduct human rights training in Nepalgunj.

On September 12, security personnel stopped Madhav Kumar Nepal, General Secretary of the Communist Party of Nepal (UML), from traveling to the house of a party member in Tulsipur, Dang District. In 2001 a dawn-to-dusk curfew was imposed in Tulsipur, when Maoists walked out of the first round of peace talks and attacked an army barrack in Dang.

The government regularly restricted refugees' right to travel freely outside of the country.

Maoists restricted freedom of movement within the country, including forcing transportation strikes and using landmines to target civilian transportation (see sections 1.a and 1.g.).

The law prohibits forced exile, and forced exile 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).—Internal displacement caused by the Maoist insurgency continued to be a problem, with estimates of the number displaced ranging widely. International organizations estimated that between 100 thousand and

200 thousand citizens may have been internally displaced. The variation existed because those displaced usually found shelter with relatives and did not register with the government or seek assistance.

The government allowed IDPs access to domestic and international humanitarian organizations and permitted them to accept assistance provided by these groups.

According to OCKENDEN International, there were six IDP camps run by different NGOs in Banke District in the mid-west. These camps, created in 2000, held approximately seven to eight thousand IDPs. NGOs provided medicine, education to children, logistics and temporary shelter.

On September 18, the CDO of Humla District took 25 female IDPs into custody for 3 hours for causing obstructions in public places after they surrounded an empty food-storage building and demanded food.

Protection of Refugees.—The law does not provide for the granting of asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol (see section 5), but the government has established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and the government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylees. The UNHCR maintained an office in Kathmandu and a sub-office in Damak.

Between 1959 and 1989 the government accepted as residents approximately 20 thousand Tibetan refugees, most of whom still reside in the country. Since then the government has allowed Tibetan refugees to transit the country. During the year 3,395 Tibetan arrivals registered with UNHCR for transit to India, and 3,352 reportedly departed. This was the second highest number of arrivals (largest was 3,697 in 1993) since UNHCR began assisting transiting Tibetans in 1990. Since 1991 the government has provided asylum to approximately 105 thousand persons who claim Bhutanese citizenship. The great majority of these refugees lived in UNHCR-administered camps in the southeastern part of the country. Approximately 15 thousand additional Bhutanese refugees resided in the country and in India outside of camps. The government allowed UNHCR to provide services for other asylum seekers, such as individuals from Iraq and Sudan. The government permitted UNHCR to visit the Nepal-China border four times during the year.

The People's Republic of China and the government tightened control of movement across the border in 1986, but neither side consistently enforced these restrictions. Police and customs officials occasionally harassed Tibetan asylum seekers who fled China. According to UNHCR, police conduct has improved since 1999, although border police sometimes extorted money from Tibetans in exchange for passage. There were unconfirmed reports that Tibetan asylum seekers were sometimes handed back to Chinese authorities after crossing the border. Maoists regularly robbed Tibetan refugees traveling from border areas to Kathmandu.

The UNHCR monitored the condition of Bhutanese refugees and provided for their basic needs; however, the government refused to allow UNHCR to profile and verify those in the Bhutanese refugee camps. The government accepted the temporary refugee presence on humanitarian grounds. The UNHCR administered camps; the World Food Program (WFP) provided sustenance; and the government made a contribution to the WFP earmarked for the refugees.

The government officially restricted Bhutanese refugees' freedom of movement and work, but it did not strictly enforce its policies. Bhutanese refugees were not allowed to leave the camps without permission, but it was consistently granted. Local authorities attempted to restrict some of the limited economic activity in the camps permitted by the central government. Violence sometimes broke out between camp residents and the local population.

In October the government stopped issuing travel documents necessary for resident Tibetan and Bhutanese refugees to leave the country, saying it had to study the issue. In November the government also stopped issuing exit permits to Tibetan refugees transiting to India, also saying it had to study the issue. However, the government allowed Tibetans to enter Nepal, and apply for and receive UNHCR protection.

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; however, citizens were not afforded this right in practice. The government claimed the ongoing insurgency prevented the holding of elections, and since the dismissal of the elected government in 2002, the king has appointed three interim govern-

ments. On February 1, the king dismissed the cabinet, citing the emergency powers article in the constitution. At year's end parliament had not been reestablished.

Elections and Political Participation.—Past elections generally were held throughout the country according to schedule, and parliamentary elections are to be held every five years. International observers considered the 1999 elections, the last elections held, to be generally free and fair. Executive power is vested in the king and the council of ministers.

The law bars the registration and participation in elections of any political party that is based on religion, community, caste, tribe, region, or that does not operate openly and democratically. The election commission reported that there were 128 registered political parties in the country. Under the law individuals may contest elections in the district in which they are on the election rolls, whether independently or with a political party. Seven of the largest political parties formed an alliance in May, headed by Girija Prasad Koirala, president of the Nepali Congress Party. Most larger political parties have associated youth wings, trade unions, and social organizations.

There are no specific laws that restrict women, indigenous people, or minorities from participating in government or in political parties, but tradition limited the roles of women and some castes in the political process. The law requires that women constitute at least 5 percent of each party's candidates for the House of Representatives. The law also requires that at least 20 percent of all village and municipal level seats be reserved for female candidates. There were two women in the most recent cabinet appointed by the king.

No specific laws prevented minorities from voting or restricted their participation in government or political parties on the same basis as other citizens. There were no special provisions to allocate a set number or percentage of political party positions or parliamentary seats for any minority group. Members of certain castes traditionally held more power than others. Of the current 35-member cabinet, 12 were from ethnic minority communities.

Government Corruption and Transparency.—The law provides for an anticorruption authority, the Commission for the Investigation of the Abuse of Authority (CIAA), which is mandated to investigate official acts of corruption. In September the CIAA began investigating three cabinet ministers for their involvement in an illegal plan to profit from smuggled fertilizer subsidized by the Indian government.

Following the February 1 proclamation, the king constituted another corruption investigation body called the Royal Commission for Corruption Control (RCCC), which acted as investigator, prosecutor, and judge. On July 26, the RCCC ordered a jail sentence of two years and a fine of over \$500 thousand (approximately 36 million NPR) on both former prime minister Sher Bahadur Deuba and former minister Prakash Man Singh for irregularities associated with the awarding of a contract for the Asian Development Bank (ADB)-funded Melamchi Water Supply Project. The RCCC would not accept into evidence an ADB report that found no irregularities in the awarding of the contract.

The law provides citizens with a right to information "on any matter of public importance," except in cases where secrecy is required by law; however, there is no formal legislation providing citizens with access to government information. There were no known examples of this section of the law being tested.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials sometimes were cooperative and responsive to their views. After the state of emergency was declared on February 1, the government detained a number of civil society members and prevented others from leaving the country or traveling outside the capital (see section 2.d.). In addition there were complaints of intimidation being used against human rights NGOs and workers by both the government and the Maoists.

There were approximately 10 independent, domestic human rights NGOs, including the Human Rights Organization of Nepal INSEC; the International Institute for Human Rights, Environment, and Development; and the Human Rights and Peace Society. 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, or ethnic minorities.

The insurgency caused many NGOs to reduce substantially their activities. There were frequent credible claims that Maoists refused to allow human rights NGOs and

journalists to enter certain western districts. In addition Maoists killed and abducted some NGO workers.

On May 15, four foreign aid agencies suspended operations in Kalikot District because Maoists extorted money and seriously assaulted one male and one female staff member of an NGO they supported. Maoists tried to force the woman to dig her own grave but her injuries were too serious to allow her to complete digging. On September 21, the aid agencies resumed operations in Kalikot, acknowledging that they had obtained an understanding with the Maoists, who agreed not to use aid for military, political or sectarian purposes.

The government welcomed and regularly granted visas to international NGOs and other human rights monitors, including members of AI and HRW.

In April the government and OHCHR signed an agreement to establish an office in the country to assist the government in formulating and implementing policies and programs for the promotion and protection of human rights.

On August 19, OHCHR released its first two reports. The first report focused on two Maoist attacks on civilian transport buses being used by the military (see section 1.g.). OHCHR emphasized the primary responsibility of the Maoists for the killing of civilians, but also found that the RNA failed to "take precautions" to protect the civilian population by repeatedly using public transportation. In response to OHCHR's findings, the RNA demoted two officers for poor judgment. The second report focused on the abduction and murder of family members of APF personnel (see section 1.a.). OHCHR could not clearly identify the perpetrators, but called on the Maoists to investigate the incident. Local media freely reported on these two OHCHR reports.

From April 13 to 22, the representative of the UN Secretary-General on the human rights of internally displaced persons visited the country to assess the situation of IDPs. The representative concluded that IDPs were largely overlooked and neglected (see section 2.d.).

From September 10 to 17, the UN Special Rapporteur on Torture visited the country and concluded that security forces systematically practiced torture and ill-treatment. He also noted evidence of torture and mutilation carried out by the Maoists (see section 1.c.).

On May 26, the government, through a royal ordinance, amended the 1997 act that created the NHRC, appointed four new commissioners, and reappointed the chair. While the commission was to operate independently, 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. Since its establishment in 1997, the commission has received 3,365 complaints of human rights violations. The NHRC investigated and gave a decision on compensating in 72 cases, of which the government acted on eight cases, awarding 18 people compensation. The government was reviewing nine other cases for possible compensation. The NHRC identified that the government had arrested 1,697 people reported to NHRC as disappeared. While a number of people were subsequently released, the NHRC maintains that the government continues to hold 901 persons secretly. The NHRC identified the Maoists as abducting 290 persons who are still missing. The NHRC also investigated illegal detention and arrest of acquitted persons.

On August 11, the government dissolved three human rights organizations functioning under different government ministries and agencies and constituted a central committee and two sub-committees to manage and address human rights issues raised by the NHRC and other human rights organizations.

Section 5. Discrimination, Societal Abuses, Trafficking in Persons

The law specifies that the government shall not discriminate against citizens on grounds of race, sex, caste, or ideology; however, a caste system operated throughout the country in many areas of daily life. Societal discrimination against lower castes, women, and persons with disabilities remained common, especially in rural areas.

Women.—Domestic violence against women was 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. Sensitizing programs by NGOs for police, politicians, and the general public have led to a greater awareness of the problem. The women's cell of the police received 730 reports of domestic violence during the country's fiscal year, which ended on June 15. However, in the absence of a domestic violence law, police were unable to file cases against the accused.

Police had 18 women's cells in 16 of the country's 75 districts, with female officers who received special training in handling victims of domestic violence and trafficking. Police also sent out directives instructing all officers to treat domestic vio-

lence as a criminal offense that should be prosecuted. Nevertheless, according to a police official, this type of directive was difficult to enforce because of entrenched discriminatory attitudes among police. Even though police may make an arrest, often neither the victim nor the government pursued prosecution.

More than 20 NGOs in Kathmandu worked on the problem of violence against women and on women's issues in general, and provided shelter, medical attention, counseling, and legal advocacy for the victims of violence.

Laws against rape provide for prison sentences of 10 to 15 years for the rape of a child under the age of 10, seven to 10 years' imprisonment for raping a child between 10 and 16 years old, and 5 to 7 years for the rape of a woman 16 or older. If the victim is handicapped, pregnant, or mentally retarded, an additional five years is added to the standard sentence. A 2003 Supreme Court order prohibits spousal rape. During 2004 and through September, 178 cases of rape and 26 cases of attempted rape were filed in the court, according to the women's police cell. A survey conducted by SAATHI, an antitrafficking NGO, found that 39 percent of rape victims who reported the crime to police were under the age of 19. Of those victims who reported the crime to the authorities, 25 percent said the government arrested and convicted the perpetrator. According to SAATHI, police and the courts were quick to respond to rape cases.

The dowry tradition was strong in the Terai districts bordering India; however, the killing of brides because of defaults on or inadequacy of dowry payments was rare. More common was physical abuse of wives by husbands and in-laws seeking to obtain additional dowry, or to force the woman to leave so that the man might remarry.

Traditional beliefs about witchcraft generally involved elderly rural women and widows. Shamans or other local authority figures sometimes publicly beat and physically abused suspected witches as part of an exorcism ceremony. According to INSEC, there were 13 victims of witchcraft-related violence during the year. In 2003 the NHRC asked the government to develop a mechanism to prevent such abuses and to provide compensation to the abused. During the year the government awarded compensation to 13 victims of witchcraft-related violence that took place in 2003. The district administration office in the district where the violence occurred now handles all cases of witchcraft violence.

Trafficking in women remained a serious problem throughout the country, and large numbers of women were forced to work against their will as prostitutes in other countries (see section 5, Trafficking). Prostitution was illegal.

Although the law provides protections for women, including equal pay for equal work, the government had not taken significant action to implement those provisions, even in many state industries. 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 the right to vote or to hold property in their own names. Unmarried, widowed, and divorced women were able to inherit parental property.

In September the Supreme Court passed a verdict allowing all children whose father was unknown to have citizenship "until the father of the child is traced." However, the citizenship law still denies citizenship to the children of female citizens married to foreign spouses, even if those children were born in the country.

Also in September the Supreme Court declared unconstitutional a clause in the Birth and Death Record Act of 1976, which permitted only a male to record birth and death information in government offices. Women may now register birth and death information. The court ordered the government to enact a law abolishing the practice of *chhaupadi*, which required a woman to stay in a cow-shed for four days during her menstrual periods.

In November the Supreme Court ruled that, unlike in previous years, women did not need permission from their husband or parents to get a passport.

In December the Supreme Court ruled that women no longer needed to get the permission of their husband, son, or parents if they wish to sell or hand over ownership of property.

Many other discriminatory laws remain. According to legal experts, there were more than 50 laws that discriminated against women. 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 women to get permission from the government and their guardian before seeking work through a foreign employment agency. The law encourages bigamy by allowing men to remarry without divorcing their first wife if she becomes crippled 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. There were also a grow-

ing number of women's advocacy groups. Most political parties have women's groups that advocate for women's rights and bring women's issues before the party leadership.

Children.—The government is committed to the welfare and education of children, but implementation of laws and programs has been uneven, in part due to violence resulting from the ongoing insurgency. Education is not compulsory. However, government policy was to provide free primary education for all children between the ages of 6 and 12 years. The quality of education provided was inadequate, and many families could not afford school supplies and clothing. Schools did not exist in all areas of the country. Approximately 60 percent of the children who worked also attended school. However, approximately 70 to 75 percent of boys who work go to school, compared with only 50 to 60 percent of the girls who work. Human rights groups reported that girls attended secondary schools at a rate half that of boys. In 2003 the Department of Education issued a report finding that one-quarter of elementary school-aged girls remained deprived of basic education. The government claims that 92 percent of school-age children are attending public schools, not attending students at madrassas or non-registered schools.

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.

Violence against children was rarely prosecuted, and abuse primarily manifested itself in trafficking of children. Forced prostitution and trafficking in young girls remained serious problems (see section 5, Trafficking).

Societal attitudes in parts of the country viewed a female child as a commodity to be bartered in marriage, or as a burden. In September to counter this notion, the government launched a program in Kalikot District to provide rice to any family that had recently given birth to a girl. Some persons considered marrying a girl before menarche an honorable, sacred act that increased one's chances of a better afterlife. As a result, although the law prohibits marriage for girls before the age of 18, child brides were common. Social, economic and religious values promote the practice of child brides. According to the Ministry of Health, girls' average age of marriage was 16 years of age, and boys' average age was 18. An age difference in marriage often was cited as one cause of domestic violence.

Maoists abducted teenagers and some younger children to serve as porters, runners, cooks, and armed cadre. Most children abducted from their schools for political education sessions were returned home within a few days, but some remained with the Maoists, either voluntarily or under compulsion. The Maoists denied recruiting children. In September the RNA estimated that 30 percent of Maoist guerillas were under the age of 18, and some were as young as 10 (see section 1.g.).

There were reports of children held in jail or in custody as suspected Maoists. The NGO Children Workers in Nepal (CWIN) reported that several months ago a 17-year-old girl had been abducted by the Maoists for 2 months and had her toe cut off. Her abduction ended when police arrested her and subsequently tortured her as a suspected Maoist. She was released by the police and stayed at a CWIN transit center.

There were six cases of female infanticide reported during the country's fiscal year, but the problem was not thought to be widespread.

Internal displacement due to the conflict, including of children, continued to be a problem, with estimates of the number displaced ranging widely. The International Labor Organization estimated that 10 to 15 thousand children were displaced during the year. As IDPs, children faced inadequate access to food, shelter, and health care, and had limited access to education.

A number of effective NGOs work in the field of children's issues, including Save the Children, the Sahara Group, Child Workers in Nepal Concerned Centre, CVICT, Ray of Hope, Terre des Hommes, Maiti Nepal, ABC Nepal, the Forum for Women, Law and Development, Rugmark, and World Education.

Trafficking in Persons.—The law prohibits trafficking in persons and prescribes imprisonment of up to 20 years for infractions; however, trafficking in women and children remained a serious problem. During the year enforcement of antitrafficking statutes improved but remained sporadic. The law prohibits selling persons in the country or abroad.

The government has a national plan of action to combat trafficking and a National Rapporteur on Trafficking. However, political instability and security problems associated with the Maoist insurgency hindered the government's antitrafficking efforts.

Nepal 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

of age were trafficked. While the vast majority of trafficking was of women and girls for sexual exploitation, women and girls sometimes were trafficked for domestic service, manual or semi-skilled bonded labor, work in circuses, or other purposes. Most women and girls trafficked from the country went to India, lured by promises of good jobs or marriage. Internal trafficking for forced labor and sexual exploitation also occurred. Save the Children and Action Aid conducted research linking conflict, migration, and employment. The studies indicated that internal trafficking may be on the rise due to the insurgency, as rural women and children left their homes to seek both employment and security in urban centers.

According to the 2004 annual report of the Attorney General's office, 133 trafficking cases were filed in district attorneys' offices across the country. At the end of 2004, of the 133 cases, 32 resulted in full or partial convictions, 18 in acquittal, and 83 remained open. At year's end the Attorney General's office had not released its latest report.

Local NGOs combating trafficking estimated that 25 thousand to 200 thousand women and girls were lured or abducted annually into India and subsequently forced into prostitution; however, these numbers were not consistent, and NGOs continued to seek better estimates. Women were also trafficked to Saudi Arabia, Malaysia, Hong Kong, the United Arab Emirates, and other gulf states for sexual exploitation and domestic servitude. In 2003 the government lifted a ban on female domestic labor leaving the country to work in Saudi Arabia and other countries in the gulf. The government did not monitor adequately labor recruiting agencies to ensure that workers going abroad attended pre-migration orientation sessions, or that labor contracts were honored after workers' arrivals in receiving countries.

Hundreds of women and girls returned voluntarily or were rescued and repatriated to the country annually after having worked as commercial sex workers in India. Most were destitute and, according to estimates by local NGOs Maiti Nepal and ABC Nepal, 50 percent were HIV-positive when they returned. Maiti Nepal, the country's largest antitrafficking NGO, operated a hospice for HIV positive trafficking victims and their children.

Traffickers were usually from the country or India, and had links to brothels in India. In some cases parents or relatives sold women and young girls into sexual slavery. NGOs' unverified estimates suggested that 50 percent of victims were lured to India with the promise of good jobs and marriage, 40 percent were sold by a family member, and 10 percent were kidnapped. During the year the government identified 26 high-priority districts as source areas of trafficking and established antitrafficking task forces in nine districts of the country. Women and youth displaced from homes as a result of the insurgency were especially vulnerable to being trafficked.

While the government lacked both the resources and institutional capability to address effectively its trafficking problem, the government established a National Task Force at the Ministry of Women, Children and Social Welfare (MOWCSW) with personnel assigned to coordinate the response. There were programs in place to train police, and the MOWCSW worked closely with local NGOs to rehabilitate and otherwise assist victims. Police women's cells in 18 districts worked with NGOs to provide referral services to victims of trafficking and domestic violence.

The government provided limited funding to NGOs to give assistance to victims with rehabilitation, medical care, and legal services. The MOWCSW sponsored job and skill training programs in several poor districts with high rates of commercial sex workers who are sent to India. The government protected the rights of victims and did not detain, jail, or prosecute them for violations of other laws.

The government, together with NGOs and international organizations, implemented local, regional, and national public awareness campaigns on trafficking in persons; however, the government failed to budget for adequate police training and resources, and the courts were overburdened. Government welfare agencies worked with NGOs to deliver public outreach programs and assistance to trafficking victims.

Planete Enfants, an EU-funded NGO, collaborated with the government on campaigns to educate girls about trafficking in 19 districts. UNIFEM, in coordination with the government, conducted campaigns to target potential victims and deter traffickers by advertising the potential 20-year punishment for trafficking. These efforts resulted in the interception and rescue of potential victims and in eroding the stigma associated with being a trafficking victim.

Cultural attitudes toward returned victims of trafficking were often negative. There were more than 50 NGOs combating trafficking, several of which had rehabilitation and skills training programs for trafficking victims. With the government's endorsement, many NGOs created outreach campaigns using leaflets, comic books, films, speaker programs, and skits to convey antitrafficking messages and education

in urban, cross-border, and rural areas. Maiti Nepal, which stationed rehabilitated trafficking victims as guards with government officials to intercept trafficking victims at border crossings, reported that some of their female border guards had been attacked because of their work.

Persons with Disabilities.—The law does not prohibit discrimination against persons with physical and mental disabilities, and there was discrimination against persons with disabilities 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. Despite government funding for special education programs, the government did not implement effectively or enforce laws regarding persons with disabilities. The MOWCSW is responsible for the protection of those 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 that 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 was especially common 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 the disadvantaged castes. On January 27, the National Dalit Commission relaunched a nationwide campaign to eradicate untouchability.

Economic, social, and educational advancement tended to be a function of historical patterns, geographic location, and caste. 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, including barring access to temples, is illegal. However, dalits were occasionally barred from entering temples. Progress in reducing discrimination was more successful in urban areas. On August 17, a Maoist raped a dalit woman and harassed three others in Saptari District. After word spread of the incident, INSEC reported that the local Maoist leadership apologized to the victims, and killed the rapist (see section 1.a.).

Other Societal Abuses and Discrimination.—The country does not have any laws that specifically criminalize homosexuality; however, government authorities, especially police, sometimes harassed and abused homosexuals. For example, on April 13, police attacked 18 metis (a traditional term for males who dress and identify as women) who were walking toward a festival in Kathmandu, according to the Blue Diamond Society, a Nepali NGO that works to protect against discrimination against the lesbian, gay, bisexual, and transgendered communities.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the freedom to establish and join unions and associations, and these rights were protected in practice. The law permitted the restriction of unions only in cases of subversion, sedition, or similar conditions. Trade unions developed administrative structures to organize workers, to bargain collectively, and to conduct worker education programs. The three largest trade unions were affiliated with political parties. On July 14, the government promulgated the Civil Service Act, which prohibits government employees from forming an umbrella employee’s organization; however, certain government employees may form organizations on the basis of professional affiliation, such as a lawyers’ or medical doctors’ association.

Union participation in the formal sector accounted for approximately 10 percent of the formal work force. The Labor Act of 1992 and the Trade Union Act of 1992 formulated enabling regulations; however, the government had not fully implemented these acts. The Trade Union Act 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 did not restrict unions from joining international labor bodies. Several trade federations and union organizations maintained a variety of international affiliations.

b. The Right to Organize and Bargain Collectively.—The Labor Act provides for collective bargaining, although the organizational structures to implement the act's provisions had not been established. The government allowed unions to operate freely and without interference. Collective bargaining agreements covered an estimated 10 percent of wage earners in the organized sector; however, in general labor remained widely unable to use collective bargaining effectively due to legal obstacles to striking and inexperience.

The law provides the right to strike except by employees in essential services, and workers exercised this right in practice. The law empowers the government to halt a strike or to suspend a union's activities if the union disturbs the peace or if it adversely affected the nation's economic interests. Under the Labor Act, 60 percent of a union's membership must vote in favor of a strike in a secret ballot for the strike to be legal.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.). The Department of Labor enforced laws against forced labor in the small formal sector, but remained unable to enforce the law outside that sector.

Enforcement of the Kamaiya Prohibition Act by the government was uneven, and social integration of the Kamaiyas—bonded laborers—was difficult. By 2004, according to the ILO, 12,019 Kamaiyas had received land, 7,149 families each had received approximately \$143 (10 thousand NRS) for building homes, and about 3 thousand had received timber to build houses. The government set up temporary camps for approximately 14 thousand other Kamaiyas still awaiting settlement. As of September, according to the ILO, a remaining 14 thousand persons who re-registered as bonded laborers in 2004 had not received land and money, and were forced to take land in several far-western districts.

The Maoists regularly used forced labor to build roads and carry out other projects. Forced labor by children occurred during the year (see section 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment.—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 (6 hours a day and 6 days a week, between 6 a.m. and 6 p.m.). The Child Labor Act applies only to formal sectors of the economy, such as tourism, cigarette or carpet factories, and mines.

Child labor is a significant problem, particularly in the large informal sector, which included such businesses as portering, rag picking, and rock breaking. Resources devoted to enforcement were limited, and NGOs estimated that 2.6 million children, most of them girls, participated in the labor force. Of that number, 1.7 million children worked full time. The agricultural sector accounted for most child laborers, an estimated 95 percent.

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 years of 14 and 16. The law also established specific penalties for those who unlawfully employ children. However, the necessary implementing regulations have not been passed. In 2003 the government established the minimum wage for children aged 14–16 at approximately \$22 (1,558 NRS) per month, with additional allowances of roughly \$5 (360 NRS) per month for food and other benefits. Roughly 60 percent of children who worked also attended school.

There were credible reports that the Maoists forcibly recruited children, including girls, as soldiers, human shields, runners, and messengers (see section 5).

The Ministry of Labor, responsible for enforcing child labor laws and practices, had a mixed enforcement record. According to the ministry, the number of labor inspectors declined from 14 to 10 in 2004. However, these inspectors were able to achieve their annual goal of 500 inspections (out of 10 thousand registered companies) to ensure that no child labor was present. The ministry reported that no children under the age of 14 were found working in the factories inspected. In 2004 the government conducted four public awareness programs in various regions of the country to raise public sensitivity to the problem of child labor.

e. Acceptable Conditions of Work.—In 2003 the government raised the minimum monthly wage for unskilled labor to approximately \$27 (1,894 NRS). The law also defined monthly minimum wages for semi-skilled labor at approximately \$28 (1,944

NRS), skilled labor at approximately \$29 (2,054 NRS), and highly skilled labor at approximately \$32 (2,244 NRS). Additional allowances for food and other benefits totaled just over \$7 (500 NRS) per month. Wages in the unorganized service sector and in agriculture often were as much as 50 percent lower. The law calls for a 48-hour workweek, with one day off per week, and limits overtime to 20 hours per week. None of these minimum wages was sufficient to provide a decent standard of living for a worker and family.

The government set occupational health and safety standards, and the law established other benefits such as a provident fund and maternity benefits. Implementation of the Labor Act was slow, as the government had not created the necessary regulatory or administrative structures to enforce its 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.

PAKISTAN

Pakistan is a federal republic with a population of approximately 163 million. The head of state is President and Chief of Army Staff Pervez Musharraf who assumed power after overthrowing the civilian government in 1999. The head of government is Prime Minister Shaukat Aziz, whom the national assembly elected over opposition parties' objections in 2004. Domestic and international observers found the 2002 national assembly elections, the most recent national elections, deeply flawed. The civilian authorities maintained control of the security forces; however, there were instances when local police acted independently of government authority.

The government's human rights record was poor, and serious problems remained. The following human rights problems were reported:

- restrictions on citizens' right to change their government
- extrajudicial killings, torture, and rape
- poor prison conditions, arbitrary arrest, and lengthy pretrial detention
- violations of due process and privacy rights
- lack of judicial independence
- harassment, intimidation, and arrest of journalists
- limits on freedom of association, religion, and movement
- imprisonment of political leaders
- corruption
- legal and societal discrimination against women
- child abuse
- trafficking in women and children, and child prostitution
- discrimination against persons with disabilities
- indentured, bonded, and child labor
- restriction of worker rights

The government took significant steps to combat trafficking in persons. Its Anti-Trafficking Unit (ATU) was fully functional and resulted in increased arrests and prosecutions of human traffickers. Cooperative efforts between the military, ATU, and international organizations prevented any increase in human trafficking resulting from the October 8 earthquake. Training efforts within the security forces greatly improved treatment of trafficking victims.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Security forces extrajudicially killed individuals associated with criminal and political groups in staged encounters and during abuse in custody. Human rights monitors reported 189 instances of encounter killings.

Police said that many of these deaths occurred when suspects attempted to escape, resisted arrest, or committed suicide; however, family members and the press said that many of these deaths were staged. For example, on January 25, Abu Bakar Panwhar died in police custody at the police station in Mirpurkhas, Sindh, after being detained on theft charges. Following protests by the Sindh People's Students Federation and the Pakistan People's Party Parliamentarians (PPPP), the po-

lice filed murder charges against officer Mohammad Rafiq Siyal, senior inspector Khamiso Khan, assistant senior inspector Ghulam Shabbir Dasti, and police constable Mohammad Aslam. An investigation continued at year's end.

On March 5, Samiullah Kalhoro, the vice chairman of the *Jeay Sindh Muttahida Mahaz*, died after sustaining serious injuries from torture he received while in police custody in Hala. Police maintained Kalhoro was never detained. There was no investigation at year's end.

On April 25, Sufi Muhammad Aslam died in police custody after being arrested in connection with a murder case in which Aslam was guarantor of the suspect's bail at his shop in Lakhodare village on the outskirts of Lahore. According to Aslam's son, when Aslam demanded to see the arrest warrant, police beat him. Aslam lost consciousness en route to the police station and was taken to Ali Medical Center and later to Shalimar hospital, where police claimed Ali died of natural causes. Despite protests from relatives, they brought no charges against police.

On May 20, police in Madni Bahauddin, Punjab, arrested local Islamic cleric Naeem Mehmood Qadri. The following day police informed his family that a truck crushed and killed Qadri; however, following a September 8th court-ordered exhumation of his body, authorities confirmed that Qadri was beaten. At year's end, a judge charged the five police constables with murder.

On September 26, Ghulam Raza died in police custody at the Thari Mirwah police station after being detained by police in Khairpur, Punjab. Police detained Raza on charges of stealing a motorcycle, but they failed to file proper arrest documents. While the police claimed Raza committed suicide, relatives asserted that police killed Raza. At year's end authorities arrested assistant senior inspector Ghulam Abdul Ghafoor in connection with the case.

A government inquiry into the 2004 deaths of three Pakistan People's Party (PPP) workers in Attock concluded that there was no evidence of police or district government involvement.

There were no developments in the 2004 death-in-custody cases of Nazakat Khan and Syed Qutbuddin Shah or the 2004 killing of Tabassum Javed Kalyar.

The government frequently investigated police officials for extrajudicial killings; however, failure to discipline and prosecute consistently and lengthy trial delays contributed to a culture of impunity.

Continued clashes between security forces and terrorists in the Federally Administered Tribal Areas (FATA) resulted in nine civilian deaths during the year.

On March 17, in Dera Bugti, Balochistan, Frontier Corps personnel shelled the militant leader Nawab Akbar Khan Bugti's residential compound, killing 67 civilians and wounding 55.

On December 31, in Pikal, Balochistan, security forces killed 10 and injured 43 civilians during a helicopter assault on militants linked with Nawab Akbar Khan Bugti. Related security force shelling of militant positions in the town of Dera Bugti, Balochistan, on December 30 and 31 resulted in 38 injured civilians. Baloch nationalists claimed that a security force assault on militants linked to Nawab Khai Bax Marri in Kohlu District also resulted in civilian deaths and injuries, but no figures were available.

There were reports of politically motivated killings perpetrated by political factions. During local elections held on August 18 and 25, arguments between competing candidate groups resulted in violent confrontations at polling places nationwide, leaving at least 55 dead and hundreds injured (see section 3).

Politically motivated killings occurred during the year. For example, on January 2, unknown assailants killed former parliamentarian Syed Manzoor Hussain Shahand and his three aides in an ambush on the Grand Trunk Road near Theekarian Morr in Punjab. Police blamed a long standing feud with political rivals. On January 7, unknown assailants on a motorcycle in Karachi killed Baloch nationalist leader Anwar Bhajjan. On March 20, unknown assailants shot and killed Ahsan Aziz, a Pakistan Muslim League (PML) activist, in a Karachi park. On April 11, in Karachi, unknown motorcycle gunmen killed Shorab Goth, a Muttahida Quami Movement (MQM) activist.

Attacks on houses of worship and religious gatherings linked to sectarian, religious extremist, and terrorist groups resulted in the deaths of nearly 75 persons (see section 2.c.). On March 19, a bomb explosion in Jhal Magsi district at the shrine to Pir Syed Rakheel Shah during Shi'a and Brailvi ceremonies commemorating the saint's death killed more than 40 persons and wounded more than 100. The government blamed the attack on the terrorist group Lashkar-e-Janghvi. On May 27, a suicide bomber attacked the Bari Imam Shrine outside Islamabad during Shi'a and Brailvi ceremonies, killing 20 and wounding over 100 on the anniversary of the saint's death. On May 30, a suicide bomber and 3 armed accomplices, allegedly affiliated with Lashkar-e-Janghvi, attacked a Shi'a mosque in Karachi, killing 5 and

injuring at least 30. Prompted by the mosque attack, rioters took to the streets in Karachi. The mob killed six persons when they burned a Kentucky Fried Chicken restaurant. On September 22, members of Lashkar-e-Jangvi detonated 2 simultaneous bombs in Lahore that killed 6 persons and wounded 26 others.

On June 4, a Karachi antiterrorism court convicted Gul Hasan of murder and sentenced him to death for the May suicide bombing of a Shi'a mosque. There were no developments in any of the cases of 2004 attacks on houses of worship.

Religious extremist organizations killed and attempted to kill government officials and Islamic religious figures from opposing sects (see section 2.c.).

The trial of members of the Jandullah group implicated in attacks on foreigners and government officials in 2004 continued at year's end. There were no developments in the other 2004 cases of murder of government officials and religious figures or terrorist attacks on foreign targets.

Foreign terrorists and their local tribal allies attacked and killed military personnel, government officials, and progovernment tribal chiefs in the FATA. For example, on January 22, unidentified gunmen shot and killed Mohammad Ibrahim Khan Mehsud, senior vice president of the tribal peace committee in Makeen, South Waziristan, at his home in Tauda Cheena. On May 29, militants killed former federal minister and progovernment tribal leader Faridullah Khan, his cousin, and a bodyguard after attacking his vehicle in South Waziristan. On July 22, unidentified gunmen shot and killed Mir Zalam Khan, the progovernment chief of the Ahmadzai Wazir tribe, after attacking his vehicle in Wana, South Waziristan. His two brothers and a nephew also died in the attack.

Honor killings continued to be a problem, with women as the principal victims. Local human rights organizations documented 1,211 cases during the year, and many more likely went unreported (see section 5).

January 18 shelling across the line of control in Kashmir, the country's border with India, did not result in any casualties.

b. Disappearance.—There were no reports of politically motivated disappearances; however, police and security forces held prisoners incommunicado and refused to provide information on their whereabouts, particularly in terrorism and national security cases. For example, on June 4, intelligence agencies in Swat allegedly detained sisters Arifa Baloch and Saba Baloch on suspicion of receiving terrorist training from their uncle Gul Hasan, a member of Lashkar-e-Janghvi. On August 22, the Interior Ministry denied any knowledge of their whereabouts to the Peshawar High Court; however, on September 20, Gul Hamdana, the sisters' relative who had been missing for three months reappeared, claiming that intelligence agencies held her incommunicado in the same location as the sisters, who remained under detention. In January security agencies released a Dutch national detained at Lahore University in 2004. There was no new information available on a British national who disappeared at the same time as the Dutch national.

The PPP claimed that in Sindh members of the ruling PML kidnapped candidates of the PPP-supported Awam Dost panel to prevent them from filing nomination papers for local elections. For example in Chachro, Tharparkar District, PML supporters allegedly kidnapped Moto Meghwar and Gyan Chand Meghwar, Awam Dost candidates for mayor and deputy mayor of Union Council Sarangiar along with their supporters. The PML denied that such kidnappings occurred, and the Election Commission of Pakistan (ECP) claimed that its investigation yielded no evidence to support such charges. International observers, however, found that the charges likely were credible.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture and other cruel, inhuman, or degrading treatment; however, security forces tortured and abused persons. Under provisions of the Anti-Terrorist Act, coerced confessions are admissible in special courts, although police did not use this provision to obtain convictions.

Security force personnel continued to torture persons in custody throughout the country. Human rights organizations reported that methods included beating; burning with cigarettes, whipping the 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 and children during interrogations. The nongovernmental organization (NGO) Lawyers for Human Rights and Legal Aid recorded 1,356 cases of torture during the year. Torture occasionally resulted in death or serious injury (see section 1.a.). In April Shabbir Hussain, Zafar Abass, and Muhammad Sadiq claimed that police detained and tortured them on false charges of theft. During their detention in Hafizabad, Punjab, police allegedly beat them in front of their accuser, forced them to drink their own

urine and eat mud, and hung them upside down. The Lahore High Court ordered the police to register cases against the officer involved.

On June 23, police in Vehari severely beat and stitched together the lips of prisoner Mohammad Hussain after he argued with a police officer. At year's end authorities suspended seven policemen for their involvement.

The United Nation's implicated Pakistani peacekeepers assigned to the United Nations Mission in the Congo (MONUC) in the organization's sexual abuse scandal. The government took steps to investigate and punish those reportedly involved. In March Human Rights Watch (HRW) reported that in August 2004 domestic and foreign security forces secretly abducted and subsequently tortured two foreign nationals, brothers Zain Afzal and Kashan Afzal, to extract confessions of involvement in terrorist activities. HRW reported that authorities released the brothers on April 22 without charge.

There were no developments in any 2004 cases.

The Hudood Ordinances provide for harsh Koranic punishments for violations of *Shari'a* (Islamic law), including death by stoning and amputation. Authorities did not use such punishments during the year, as they required a high standard of evidence.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards and were extremely poor, except those for wealthy or influential prisoners. Overcrowding was widespread. According to the Human Rights Commission of Pakistan (HRCP,) there were 89,370 prisoners occupying 87 jails originally built to hold a maximum of 36,075 persons.

Inadequate food in prisons led to chronic malnutrition for those unable to supplement their diet with help from family or friends. Access to medical care was a problem. Foreign prisoners often remained in prison long after their sentences were completed because there was no one to pay for deportation to their home country.

Authorities routinely shackled prisoners. The shackles were tight, heavy, and painful, and reportedly led to gangrene and amputation in several cases.

Police held female detainees and prisoners separately from male detainees and prisoners. Child offenders were generally kept in the same prisons as adults, albeit in separate barracks. Police often did not segregate detainees from convicted criminals. Mentally ill prisoners usually lacked adequate care and were not segregated from the general prison population (see section 5).

There were reports of prison riots. On May 12, inmates took control of the Sukkur central jail, holding the assistant superintendent and eight security guards hostage. The inmates were protesting prison guards' alleged theft of valuables. Police called in to quell the uprising fired on the inmates, killing 1 prisoner and injuring 26. The Punjab unspector general of prisons ordered a probe into the incident. On June 24, inmates at the Sargodha jail took two assistant superintendents and four warders hostage to protest mistreatment. In the ensuing clash, nine inmates and one guard suffered injuries. One of the inmates later died from injuries sustained during the riot.

Authorities established special women's police stations with all female staff in response to complaints of custodial abuse of women, including rape. The government's National Commission on the Status of Women claimed the stations did not function effectively in large part due to a lack of resources. Court orders and regulations prohibit male police from interacting with female suspects, but male police often detained and interrogated women at regular stations. According to women's rights NGOs, there were approximately 3,389 women in jail nationwide at year's end.

The Supreme Court indefinitely suspended a December 2004 Lahore High Court ruling that struck down the Juvenile Justice System Ordinance as unconstitutional. The ordinance is a separate procedural code for juveniles that provides numerous protections for juvenile offenders not found in the normal penal code. Authorities subjected children in prison to the same harsh conditions, judicial delay, and mistreatment as the adult population. Local NGOs estimated that 3,430 children were in prison at year's end. Child offenders could alternatively be sent to one of two residential reform schools in Karachi and Bahawalpur until they reached the age of majority. Abuse and torture reportedly also occurred at these facilities. Nutrition and education were inadequate. Family members were forced to pay bribes to visit children or bring them food. Facility staff reportedly trafficked drugs to children incarcerated in these institutions.

Landlords in Sindh and tribes in rural areas operated illegal private jails.

The government permitted visits to prisoners and detainees by human rights monitors, family members, and lawyers with some restrictions (see section 1.d.). Visits by local human rights monitors occurred during the year; however, the government denied the International Committee of the Red Cross (ICRC) access to alleged terrorist detainees.

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, the authorities did not always comply with the law.

Role of the Police and Security Apparatus.—Police have primary internal security responsibilities. Under the Police Order (Second Amendment) Ordinance promulgated on July 23, control of the police falls under elected local district chief executives known as *nazims*. Paramilitary forces such as the Rangers, the Frontier Corps and the Frontier Constabulary, and the Islamabad Capital Territory Police fall under the Ministry of the Interior. Provincial governments control the paramilitary forces when they assist in law and order operations. During some religious holidays, the government deployed the regular army in sensitive areas to help maintain public order.

Police force effectiveness varied greatly by district, ranging from reasonably good to completely ineffective. Some members of the police force committed numerous serious human rights abuses. Failure to punish abuses, however, created a climate of impunity. Police and prison officials frequently used the threat of abuse to extort money from prisoners and their families. The inspector general, district police officer, district nazim, provincial interior or chief ministers, federal interior or prime minister, or the 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. Police failed in some instances to protect members of religious minorities—particularly Christians, Ahmadis, and Shi'as—from societal attacks (see sections 2.c. and 5).

Corruption within the police was rampant. Police charged fees to register genuine complaints and accepted money for registering false complaints. Bribes to avoid charges were commonplace. Persons paid police to humiliate their opponents and avenge their personal grievances. Corruption was most prominent amongst station house officers (SHO), some of whom reportedly operated arrest for ransom operations and established unsanctioned stations to increase illicit revenue collection.

The government initiated regular training and retraining of police at all levels, both in technical skills and human rights. President Musharraf reissued and amended the 2002 Police Order on July 23, which transfers oversight responsibility of police from provinces to districts and establishes the district-level chief executive as principal supervisor. The order also calls for the immediate establishment of local oversight bodies that have been stalled since 2002. The government argued that these reforms would make police more responsive to the local community. Opponents charged that they would politicize the police force.

Arrest and Detention.—A First Information Report (FIR) is the legal basis for all arrests. Police may issue FIRs provided complainants offer reasonable proof that 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, and then only if police show such detention is material to the investigation. In practice the authorities did not fully observe these limits on detention. FIRs were frequently issued without supporting evidence as part of harassment or intimidation. Police routinely did not seek magistrate approval for investigative detention and often held detainees without charge until a court challenged them. Incommunicado detention occurred (see section 1.c.). When asked, magistrates usually approved investigative detention without reference to its necessity. In cases of insufficient evidence, police and magistrates colluded to continue detention beyond the 14-day period provided in the law through the issuance of new FIRs. The police sometimes detained individuals arbitrarily without charge or on false charges to extort payment for their release. Some women continued to be detained arbitrarily and were sexually abused (see sections 1.c. and 5). Police also detained relatives of wanted criminals to compel suspects to surrender (see section 1.f.). Courts appointed attorneys for indigents only in capital cases. In some cases persons had to pay bribes to see a prisoner. Foreign diplomats could meet with prisoners when they appear in court and may meet with citizens of their countries in prison visits. Local human rights activists reported few restrictions to their access to prisons.

The district coordinating officer may order preventive detention for up to 90 days; however, human rights monitors reported instances in which prisoners were held in preventive detention for up to 6 months. Human rights organizations charged that a number of individuals alleged to be affiliated with terrorist organizations were held in preventive detention indefinitely. A magistrate may permit continued detention for up to 14 days if necessary to complete the investigation. In corruption cases, the National Accountability Board (NAB) may hold suspects indefinitely, provided judicial concurrence is granted every 15 days (see section 1.e.).

The law stipulates that detainees must be brought to trial within 30 days of their arrest. Under both the Hudood and standard criminal codes, there were bailable and

non-bailable offenses. Bail pending trial is required for bailable offenses and permitted at a court's discretion for non-bailable offenses with sentences of less than 10 years. In practice judges denied bail at the request of police, the community, or on payment of bribes. In many cases trials did not start until 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 for which they were charged. Human rights NGOs estimated that 45 to 50 percent of the prison population was awaiting trial.

As in previous years the government used preventive detention, mass arrests, and excessive force to quell or prevent protests, political rallies, or civil unrest (see section 2.b.).

Several dozen Mohajir Quami Movement-Haqiqi (MQM-H) activists, arrested between 1999 and 2003, remained in custody at year's end, some without charge.

According to human rights monitors, 33 percent of the female prison population was awaiting trial on adultery related offenses under the Hudood Ordinances. Most of these cases were filed without supporting evidence, trials often took years, and bail was routinely denied.

Special rules apply to cases brought by the NAB or before antiterrorist courts. Suspects in NAB cases may be detained for 15 days without charge (renewable with judicial concurrence) and, prior to being charged, are not allowed access to counsel. Accountability courts may not grant bail; the NAB chairman has sole power to decide if and when to release detainees. Antiterrorist courts do not grant bail if the court has reasonable grounds to believe that the accused is guilty. Security forces may without reference to the courts restrict the activities of terrorist suspects, seize their assets, and detain them for up to a year without charges.

On June 9, the government assigned a security detail to Mukhtiar Mai (aka Mukhtaran Bibi), at her request. Ms. Mukhtiar was concerned for her safety following the court ordered release of five men convicted in her 2002 gang rape that a village council had ordered because of an alleged infraction committed by her brother. Human rights groups claimed that when the government learned Ms. Mukhtiar wished to travel abroad to speak publicly of her experience, the protection detail controlled her movements and communication, such that she was under virtual house arrest. Ms. Mukhtiar was temporarily placed on the Exit Control List (ECL), which barred her from leaving the country. By year's end the government removed her name from the ECL, allowing travel outside of the country (see sections 1.e., 1.f., 2.a., 2.d., and 5).

e. Denial of Fair Public Trial.—The law provides for an independent judiciary; however, in practice the judiciary remained subject to executive branch influence at all levels. Lower courts remained corrupt, inefficient, and subject to pressure from prominent religious and political figures. The politicized nature of judicial promotions enhanced the government's control over the court system. Unfulfilled judge-ships and inefficient court procedures resulted in severe backlogs at both trial and appellate levels. In nonpolitical cases, the high courts and Supreme Court were generally considered credible.

There are several court systems with overlapping and sometimes competing jurisdictions: criminal, civil and personal status, terrorism, commercial, family; and military.

Trial Procedures.—The civil, criminal, and family court systems provide for an open trial, the presumption of innocence, cross-examination by an attorney, and appeal of sentences. There are no jury trials. Due to the limited number of judges, heavy backlog of cases, lengthy court procedures, and political pressures, cases routinely took years, and defendants had to make frequent court appearances. Cases start over when an attorney changes.

The Anti-Terrorist Act allows the government to use special streamlined courts to try violent crimes, terrorist activities, acts or speech designed to foment religious hatred, and crimes against the state. Cases brought before these courts are to be decided within seven working days, but judges are free to extend the period as required. Under normal procedures, the high and supreme courts hear appeals from these courts. Human rights activists have criticized this expedited parallel system, charging it is more vulnerable to political manipulation.

Special accountability courts try corruption cases (see section 1.d.), including defaults on government loans by wealthy debtors, brought by the NAB. The NAB has not targeted genuine business failures or small defaulters. Accountability courts are expected to try cases within 30 days. In accountability cases, there is a presumption of guilt.

Despite government claims that NAB cases pursued independently of an individual's political affiliation, opposition politicians were more likely to be prosecuted (see section 1.d.). The NAB prosecuted no serving members of the military or judiciary.

At the trial level, ordinary criminal courts hear cases involving violations of the Hudood ordinances, which criminalize nonmarital rape (see section 5), extramarital sex, gambling, alcohol, and property offenses. The Hudood ordinances set strict standards of evidence, which discriminate between men and women and Muslims and non-Muslims, for cases in which Koranic punishments are to be applied (see sections 1.c. and 5). For Hudood cases involving the lesser secular penalties, different weight is given to male and female testimony in matters involving financial obligations or future commitments.

The Supreme Court's March 14 ruling in the Mukhtiar Bibi gang rape case refined appellate proceedings in Hudood cases. The law terms the Federal Shariat Court the court of first appeal in all Hudood cases that result in a sentence of more than two years. The Supreme Court, however, determined that in cases where a provincial high court decides to hear an appeal in a Hudood case, even in error, 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. The March 14 ruling, however, 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 that it judges to be inconsistent with Islamic tenants, but such cases are appealed to the Shari'a bench of the Supreme Court and under the new rules may ultimately be finally heard by the full Supreme Court.

The law allows for the victim or his/her family to pardon criminal defendants in exchange for monetary restitution (*diyat*) or physical restitution (*qisas*). While *diyat* was invoked, particularly in the North West Frontier Province (NWFP) and in honor cases in Sindh, *qisas* have never been used.

The FATA have a separate legal system, the Frontier Crimes Regulation, which recognizes the doctrine of collective responsibility. Authorities are empowered to detain fellow members of a fugitive's tribe or to blockade a fugitive's village, pending his surrender or punishment by his own tribe. Tribal leaders are responsible for justice in the FATA. They conduct 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 oversee proceedings and may impose prison terms of up to 14 years.

Feudal landlords in Sindh and Punjab and tribal leaders in Pashtun and Baloch areas continued to hold jirgas in defiance of the established legal system. Such jirgas, particularly prevalent in rural areas, settled feuds and imposed tribal penalties on perceived wrongdoers that could include fines, imprisonment, or even the death sentence. In Pashtun areas, such jirgas were held under the outlines of the Pashtun Tribal Code. Under this code, a man, his family, and his tribe are obligated to take revenge for wrongs—either real or perceived—to redeem their honor. Frequently these disputes arose over women and land and often resulted in violence (see section 5). At year's end the Supreme Court was in the process of hearing an appeal of the death sentence imposed on five suspects in the 2002 gang rape of Mukhtiar Bibi in Meerwalla (see section 5).

Political Prisoners.—Some political groups claimed their members were marked for arrest based on their political affiliation (see sections 1.c. and 1.d.). Pakistan Muslim League—Nawaz (PML—N) leader Javed Hashmi remained in jail, having been convicted on sedition charges in 2004. Appeals were ongoing at year's end.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law requires court-issued search warrants for property but not persons, in most cases; however, police routinely ignored this requirement and at times stole items during searches. Police were seldom punished for illegal entry. In cases being pursued under the Anti-Terrorist Act, security forces were allowed to search and seize property related to the case without a warrant.

The government maintained several domestic intelligence services that monitored politicians, political activists, suspected terrorists, and suspected foreign intelligence agents. Despite a supreme court order, credible reports indicated that the authorities routinely used wiretaps and intercepted and opened mail without the requisite court approval.

In accordance with the Anti-Terrorist Act, the government banned the activities of and membership in several religious extremist and terrorist groups. However, many of the groups that the government banned still remained active.

While 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, while the marriages of men who converted remained intact (see section 2.c.).

In some cases, authorities detained relatives to force a family member who was the recipient of an arrest warrant to surrender (see section 1.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and citizens generally were free to discuss public issues; however, journalists were intimidated and others practiced self-censorship.

There were numerous English and Urdu daily and weekly newspapers and magazines. All were independent. The Ministry of Information controls and manages the country's primary wire service, the Associated Press of Pakistan (APP), which is the official carrier of government and international news to the local media. The few small privately owned wire services practiced self-censorship. Foreign magazines and newspapers were available, and many maintained in-country correspondents who operated freely.

Newspapers were free to criticize the government, and most did. Condemnation of government policies and harsh criticism of political leaders and military operations were common. However, the government engaged in retribution against some papers critical of it or its policies. On May 21, the government banned federal government advertising in *Nawa-I-Waqt* and *The Nation*. Provincial and local governments were free to advertise in those papers and did. The ban was lifted on August 22. In June the Sindh provincial government banned provincial government advertising in papers run by the Dawn Group, owing to its critical coverage of a financial scandal involving the chief minister.

The government directly owned and controlled Pakistan Television and Radio Pakistan, the only free national electronic broadcasters. The semiprivate Shalimar Television Network, in which the government held majority ownership, expanded its broadcast range during the year. All three reflected government views in news coverage. Private cable and satellite channels Geo, ARY, Indus, and Khyber all broadcast domestic news coverage and were critical of the government. Cable and satellite television with numerous international news stations was generally affordable. Private radio stations existed in major cities, but their licenses prohibited news programming. Some channels evaded this restriction through talk shows, although they were careful to avoid most domestic political discussions. International radio broadcasts, including from the BBC and the Voice of America, were available.

The government arrested, harassed, and intimidated journalists during the year. For example, on July 18, military police detained European documentary filmmakers Leon Flamholz, David Flamholz, and Tahir Shah in Peshawar on charges of filming military installations. On August 3, following questioning, Pakistani officials deported all three, who denied filming any military installations and claimed that the military treated them inhumanely during their confinement, denying them contact with their embassies and families. On July 24, police detained Rashid Channa, a senior reporter with the *Star* in Karachi, ostensibly on the orders of the Sindh chief minister and held him for more than 12 hours. Channa had written several stories critical of the chief minister and his cabinet.

On March 25, a special antiterrorism Court in Quetta cleared journalist Khawar Mehdi Rizvi of all charges connected with his 2004 arrest. There were no other updates in 2004 cases.

Militant and extremist groups also killed, harassed, and physically assaulted journalists. For example, on January 19, a group of 30 Islamist youths attacked the offices of the Jang group of newspapers and the Geo TV offices in Karachi, damaging furniture, equipment, and vehicles and injuring a security guard. The youth were ostensibly angered by an interview with Israeli Deputy Prime Minister Shimon Peres published in *Jang*, as well as a Geo TV talk show on sexuality. On February 7, militants ambushed and killed journalists Amir Nawab Khan and Allah Noor Wazir near Wana, South Waziristan, and wounded journalist Anwar Shakir. On December 5, unknown assailants kidnapped journalist Hayatullah Khan from North Waziristan. Khan remained missing at year's end (see section 1.d.).

Unlike in previous years, the government did not directly or indirectly censor the media. Media outlets, however, continued to practice self-censorship.

Although visa restrictions on Indian journalists have been relaxed, on July 22, immigration authorities denied entry to Indian journalist Harider Baweja at Lahore International Airport despite her possession of a valid visa. She claimed that immi-

gration officials told her that she was on a blacklist. The Ministry of Foreign Affairs denied this assertion.

The Anti-Terrorist Act prohibits the possession or distribution of material designed to foment sectarian hatred or material obtained from banned organizations. As part of the government's crackdown on extremists, President Musharraf ordered police to take action against radical publications. For example, on July 15, police in Karachi arrested two managers of the extremist weekly *Zarab-e-Islam* and vendors of the extremist weekly *Zarb-e-Momen*, banned publications which openly support terrorist groups. On July 19, Karachi police banned the extremist weekly papers *Friday Special*, *Wajood*, and *Ghazi*, and the extremist daily newspaper *Ummat*, and arrested *Wajood's* editor and *Friday Special's* deputy editor for promoting extremist views. All those arrested in the Karachi raids were released on bail but faced charges under the Anti-Terrorist Act at year's end.

Court rulings mandate the death sentence for anyone blaspheming against the "prophets." 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 outrage religious feelings (see section 2.c.). On August 7, the Punjab provincial government ordered two Ahmadi printing presses in Jhang, Punjab, shut down. Police took the editor of the Ahmaddiya community magazine *al-Fazl*, Sami Khan, into protective custody and later released him. The move followed complaints from a local Islamic leader that the publications insulted the religious sentiments of Muslims. The provincial Home Department ultimately gave permission for the presses to reopen. Foreign books must pass government censors before being reprinted. Books and magazines may be imported freely but are subject to censorship for objectionable sexual or religious content.

Obscene literature, a category broadly defined by the government, was subject to seizure. Television stations broadcast dramas and documentaries on previously taboo subjects, including corruption, social privilege, narcotics, violence against women, and female inequality; however, some sensitive series were canceled before their broadcast.

Unlike in previous years, there were no reports that the government limited access to the Internet.

The government generally did not restrict academic freedom; however, the atmosphere of violence and intolerance fostered by student organizations, typically tied to political parties, continued to limit academic freedom. On some university campuses, well-armed groups of students, most commonly associated with the All Pakistan Mohajir Students Organization (APMSO) (affiliated with the MQM) and the Islami Jamiat Talaba (IJT) (affiliated with the JJ), had clashes with and intimidated other students, instructors, and administrators over issues such as language, syllabus content, examination policies, grades, doctrines, and dress. These groups frequently facilitated cheating on examinations, interfered with the hiring of staff, influenced those admitted to the universities, and sometimes also influenced the use of funds of the institutions. Such influence generally was achieved through a combination of protest rallies, control of the campus media, and threats of mass violence. In response, university authorities banned political activity on many campuses, but with limited effect. For example, on February 14 and 15, the APMSO and the IJT engaged in violent fights at the S.M. Arts and Commerce College in Karachi. At least eight students were injured in the riots. Police ultimately intervened, arresting as many as 36 students. On September 28, the APMSO and IJT engaged in violent fights at the Government City College in Gulberg, Karachi. Police injured at least 11 students in the violence.

b. Freedom of Peaceful Assembly and Association.—The law provides for freedom "to assemble peacefully and without arms subject to any reasonable restrictions imposed by law in the interest of public order," and freedom of association, and the government generally observed these rights, but with some restrictions.

Freedom of Assembly.—While the government allowed numerous opposition rallies and demonstrations to proceed during the year, it refused permits for processions in urban areas. Ahmadis have been prohibited from holding any conferences or gatherings since 1984 (see section 2.c.).

Police sometimes used preventive detention and excessive force against demonstrators. In April the government utilized mass preventive detention to prevent a planned PPP procession in Lahore to mark the return of Asif Ali Zardari, husband of Benazir Bhutto, from a trip to Dubai. Between April 14 and 16, police detained approximately 10 thousand PPP office-holders, leaders, and activists who attempted to make their way to Lahore for the planned procession. On April 16, upon arrival in Lahore police officials escorted Zardari from the commercial aircraft on which he was traveling to his residence, effectively preventing the PPP from carrying out its

reception and procession. Following statements from PPP leaders that they were planning a new procession for April 21, police in Lahore and Faisalabad placed 200 activists in preventive detention. Police released all those detained within one month of their arrest. On May 15, Lahore police forcibly dispersed participants in a mixed-gender marathon that the HRCP and the Joint Action Committee for People's Rights had organized. The marathon was supposed to protest the Islamist disruption of a similar event in Gujranwala. Police temporarily detained between 40 and 50 participants in the event. Many arrested suffered minor injuries. The government claimed that it prohibited the marathon to prevent violence from Islamist extremists. On May 21, following negotiations between the organizers and the government, the event proceeded.

Extremists also disrupted public gatherings. On April 3, several hundred activists affiliated with the Muttahida Majlis-i-Amal (a coalition of Islamist political parties) used petrol bombs, clubs, and bricks to attack participants, organizers, spectators, and police at a mixed-gender marathon in Gujranwala with. The activists torched 19 vehicles and smashed windows in the stadium and adjacent buildings. Police used batons, tear gas, and firing in the air to restore order. The clash resulted in injuries to 15 persons. Police registered cases against more than 100 activists affiliated with the MMA, including Maulana Qazi Hamidullah, a member of the national assembly.

Unlike in previous years, the authorities did not restrict the domestic movements of leaders of religious political parties.

Freedom of Association.—The law provides for the right of association subject to restriction by government ordinance and law. NGOs were required to register with the government under the 1960 Cooperative Societies and Companies Ordinance. No prominent NGO reported problems with the government over registrations during the year. Some continued to operate without registering and were not prosecuted.

c. Freedom of Religion.—The law states that adequate provisions shall be made for minorities to profess and practice their religions freely; however, the government limited freedom of religion. Islam is the state religion, and the constitution requires that laws be consistent with Islam. All citizens were subject to certain provisions of Shari'a, such as the blasphemy laws. Reprisals and threats of reprisals against suspected converts from Islam occurred. Members of religious minorities were subject to violence and harassment, and police at times refused to prevent such actions or charge persons who committed them. 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, which is the basis for the creation of Pakistan" (see section 3).

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. Ahmadis, who claimed their population was approximately 2 million, were prohibited by law from engaging in any Muslim practices, including using Muslim greetings, referring to their places of worship as mosques, reciting Islamic prayers, and participating in the Hajj or Ramadan fast. Ahmadis are 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. In March the government reinstated the religion column for machine readable passports (see section 2.d.). Ahmadis were frequently discriminated against in government hiring and in admission to government schools.

Complaints under the blasphemy laws, which prohibit derogatory statements or action against Islam, the Koran, or the prophets, were used to settle business or personal disputes and harass religious minorities or reform-minded Muslims. Most complaints were filed against the majority Sunni Muslim community. Most blasphemy cases were ultimately dismissed at the appellate level; however, the accused often remained in jail for years awaiting a final verdict. Trial courts were reluctant to release on bail or acquit blasphemy defendants for fear of violence from religious extremist groups. On January 4, President Musharraf signed a bill into law revising the complaint process and requiring senior police officials to review such cases in an effort to eliminate spurious charges. During the year there were 3 persons convicted and 5 acquitted under the blasphemy laws and another 67 ongoing cases.

All religious groups experienced bureaucratic delays and requests for bribes when attempting to build houses of worship or obtain land. The government prevented Ahmadis from building houses of worship.

Islamiyyat (Islamic studies) is compulsory for all Muslim students in state-run schools. Students of other faiths are exempt from such classes; however, in practice teachers induced many non-Muslim students to complete Islamic studies.

The Hindu community faced harassment and demands for bribes from security forces, particularly during tense periods in the relationship between Pakistan and India.

Societal Abuses and Discrimination.—Sectarian violence between Sunni and Shi'a extremists continued during the year. Attacks on mosques and religious gatherings resulted in nearly 75 deaths (see sections 1.a. and 5).

Christians and Ahmadis were the targets of religious violence. For example, on March 28, five gunmen opened fire on Christians leaving Easter services at a church in Lahore, killing one and injuring seven. The motivation for the attack, in which the police arrested two assailants, appeared to be a land dispute between local Muslims and the Christian community. In April unknown assailants kidnapped and killed Pastor Shamoan Babar and his Catholic driver, Daniel Emmanuel. Police surmised that the two men had been tortured and shot several times while bound; their bodies were left on the Peshawar road. Police suspected that Babar's non religious business activities were the motivating factor in the crime; however, the All Pakistan Minorities Alliance (APMA) believed the killings to be religiously motivated. On October 7, unidentified gunmen opened fire at an Ahmadi worship service in Mong, Mandi Bahauddin, Punjab, killing 8 and wounding 14 (see section 1.a.).

On November 12, following allegations that a Christian man had desecrated a Koran, an angry mob burned five churches and damaged other Christian property in Sangla Hill, Nankana Sahib District of Punjab. Throughout the evening of November 11 and into the morning of November 12, local mosques used their loudspeakers to incite the public to retaliatory action in response to the alleged desecration. NGOs reported that local officials took part in the announcements. At year's end 88 of the 200 persons arrested under terrorism charges for their participation in the violence remained in police custody.

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. Backed by crowds of between 100 and 200 persons, the mullahs reportedly denounced Ahmadis and their founder, creating a situation that sometimes led to violence. The Ahmadis claimed that police generally were present during these marches but did not intervene to prevent violence.

The Ahmadi, Christian, Hindu, and Shi'a Muslim communities reported significant discrimination in employment and access to education, including at government institutions.

Although there were few Jewish citizens in the country, anti-Semitic sentiments appeared to be widespread, and the press commonly published anti-Semitic and anti-Zionist press articles.

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

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights; however, the government limited them in practice. The government required special permission to enter certain restricted areas, including parts of the FATA.

The law prohibits travel to Israel. Government employees and students must obtain "no objection" certificates before traveling abroad, although this requirement rarely was enforced against students. Persons on the publicly available ECL are prohibited from foreign travel. There were approximately 4,300 names on the ECL. While the ECL was intended to prevent those with pending criminal cases from traveling abroad, no judicial action is required to add a name to the ECL. Those on the list have the right to appeal for removal to the Secretary of Interior and the advocate general of the senior judiciary. Courts have intervened to have opposition leaders removed from the ECL.

The law prohibits forced exile; however, former Prime Minister Nawaz Sharif and his brother Shahbaz Sharif remained in exile abroad, in accordance with his 2000 agreement with the government. On November 7, the government granted Nawaz Sharif and his immediate family new passports, allowing them to travel outside Saudi Arabia. Former Prime Minister Benazir Bhutto remained in self-imposed exile. She faced a number of corruption and contempt of court charges should she return to the country.

Internally Displaced Persons (IDPs).—According to press reports there were approximately 1.5 million displaced Kashmiris, from Indian-held Kashmir, in the country. Under the law, Kashmiris are entitled to the same rights as citizens.

Protection of Refugees.—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol; however, the government has a system to protect refugees. The government provided protection against *refoulement*, the return of persons to a country where they feared persecution. Since 1979 the government has provided temporary protection to millions of refugees from neighboring Afghanistan. According to a UN High Commissioner for Refugees (UNHCR)/government survey completed during the year, approximately 3 million Afghan refugees remained in country. The government continued to work closely with the UNHCR to provide support to this population. The government cooperated with UNHCR in the voluntary repatriation of 365,575 Afghan refugees during the year.

Police in some cases demanded bribes from Afghan refugees. There were credible reports that members of the intelligence community harassed refugees during their search for al-Qa'ida. 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. Single women, female-headed households, and children working on the streets were particularly vulnerable to abuse. Approximately 300 thousand Biharis, Urdu-speaking non-Bengali Muslims from Bangladesh, continued to campaign for resettlement in the country.

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

The law provides citizens with the right to change their government; however, this right was restricted in practice. President Musharraf has controlled the government since 1999 and dominated the PML federal coalition government.

Elections and Political Participation.—Domestic and international observers found the 2002 national assembly elections, the most recent national elections, and the August local elections deeply flawed.

Chief of Army Staff General Pervez Musharraf assumed the presidency by decree in 2001 following his overthrow of the elected government of Prime Minister Nawaz Sharif in 1999. The Supreme Court later sanctioned the coup; however, it directed Musharraf to restore elected government within three years. In 2002 President Musharraf held a nationwide referendum on a 5 year extension of his presidency and claimed to have received a 97.5 percent vote in favor of the referendum. However, independent observers found evidence of widespread fraud and coerced voting. The Supreme Court ruled that the referendum was constitutional; however, the court allowed the results to be revisited by an elected parliament. In 2003 the national assembly affirmed Musharraf as president until 2007.

Elections were held for the national and provincial assemblies in 2002. Musharraf's Legal Framework Order (LFO) created a number of new candidate eligibility prerequisites. International and domestic observers found the elections deeply flawed, identifying serious problems in the election framework and tampering with results in certain districts. After a number of floor crossings, which the opposition claim were induced, the PML formed a governing coalition in concert with the MQM, smaller parties, and dissident groups from opposition parties. The February 2003 indirect senate elections resulted in a majority for the governing coalition. In December 2003 the parliament incorporated a large part of the LFO into the 1973 constitution as its 17th Amendment. The amendment affirms Musharraf's presidency until 2007 and exempts him from a prohibition on holding two offices of state until the end of 2004, thereby allowing him to continue as chief of army staff. The amendment allows the president to dissolve parliament but requires him to obtain the consent of the Supreme Court within 30 days. Opposition parties said the amended constitution legitimizes the powerful role of the military in politics and transfers significant powers from the prime ministership to the previously ceremonial presidency. In October 2004 the national assembly, over objections from all opposition parties, approved a bill extending Musharraf's exemption to hold two offices through 2007. In December 2004 Musharraf announced that he would continue as chief of army staff.

The national assembly and the cabinet functioned normally during the year. In August 2004 the national assembly elected the PML candidate, former Finance Minister Shaukat Aziz, as prime minister, although all opposition parties boycotted the vote because their candidate, PML-N leader Javed Hashmi, was not allowed to appear at the assembly, having been convicted of sedition. Opposition parties criticized Aziz's election to the national assembly, claiming his two by-election victories to the assembly on August 18 were fraudulent. Domestic and international observers found irregularities but concluded the elections were generally free, fair, and credible.

President Musharraf continued to back reforms proposed by the National Reconstruction Bureau to empower local governments. On August 18 and 25, the country held direct local elections to choose members and executives for the lowest tier of local government, the union council. International observers found serious flaws in the contests in Sindh and Punjab provinces, principally during the August 25 round. Intimidation of opposition candidates and supporters, use of state resources to influence the election, vote-buying, and voting irregularities that appeared to benefit government-endorsed candidates occurred and likely had an impact on the results of the August 18 contest in Karachi and the August 25 contests in Sindh and Punjab. On October 6, indirect elections for executives of reserved minority and women's seats on the *tehsil* and district councils occurred. International observers found that all political parties engaged in attempted intimidation, coercion, and vote-buying during these contests.

The government permitted all existing political parties to function. The government forced the PPP and PML-N to elect in-country leaders other than former prime ministers Benazir Bhutto and Nawaz Sharif by refusing to register any parties whose leaders had a court conviction. The amended Political Parties Act bars any person from becoming prime minister for a third time, effectively eliminating Benazir Bhutto and Nawaz Sharif.

The opposition claimed the government continued to detain two of its leaders, Javed Hashmi and Yousaf Raza Gilliani, on politically motivated charges during the year.

The government ban on political party activities in the FATA continued. Candidates were not allowed to register by political party, and political party rallies were not allowed. Several political parties campaigned covertly during the 2002 national elections.

Inhabitants of the northern areas (Gilgit, Hunza, and Baltistan) were not covered under the constitution and had no representation in the federal legislature. An appointed civil servant administered these areas; an elected Northern Areas Council served in an advisory capacity. Members of the Azad Jammu Kashmir assembly and government are required to claim allegiance to Pakistan before they can stand in elections. Some Kashmiri political parties advocating for an independent Kashmir were not allowed to stand in elections.

There were 73 women in the 342-seat national assembly, 5 women in the cabinet; and none in the Supreme Court. Women have 60 reserved seats in the national assembly. Women also have 128 reserved seats of the 758 seats in provincial assemblies and one-third of the seats in local councils. In some districts social and religious conservatives prevented women from becoming candidates; however, in several districts female candidates were elected unopposed. Women participated in large numbers in elections, although some were dissuaded from voting by their families, religious and tribal leaders, and social customs. The PML and PPP prohibited their local leaders from entering into agreements that would prevent women from standing for or voting in the local elections. The ECP invalidated union council elections in parts of NWFP where women were not allowed to vote. Provincial chief ministers named women to serve in their cabinets.

There were 10 minorities in the 342-seat legislature, 1 on the Supreme Court, and none in the cabinet. All 10 minority members of the national assembly held reserved religious minority seats. Such seats are apportioned to parties based on the overall percentage of elected seats held in parliament. Previous direct elections for minority seats were abolished. Under the law, minorities held reserved seats in the provincial assemblies (see section 2.c.). The government required voters to indicate their religion when registering.

Government Corruption and Transparency.—Corruption among executive and legislative branch officials remained a problem during the year, and public perception of corruption was widespread. The National Accountability Ordinance prohibits those convicted of corruption by the NAB from holding political office for 10 years (see section 1.d.). The NAB disproportionately targeted opposition politicians for prosecution and did not prosecute members of the military.

While fairly restrictive regarding the information that citizens are entitled to, in 2002 a Freedom of Information Ordinance became law. The ordinance's effectiveness was unclear and there were no reports of citizens using the act to get information declassified during the year.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. They are required to be registered, although this requirement

was not generally enforced. Government officials often were cooperative and responsive to their views. Human rights groups reported that they generally had good access to police stations and prisons. The HRCP continued to investigate human rights abuses and sponsor discussions on human rights issues during the year.

President Musharraf criticized domestic women's rights organizations during the year. He discouraged their efforts to publicize rape and sexual abuse cases with the international community, claiming that such efforts damaged the country's international image.

On May 14, police in Lahore prevented several human rights organizations from holding a symbolic mixed-gender mini-marathon to highlight violence against women, as organizers did not have appropriate permits (see section 2.b.). In the course of arresting those who refused to adhere to police instructions to disperse, police hit Asma Jahangir, the UN Special Rapporteur on Human Rights and head of the HRCP, with a baton and tore off her shirt.

International observers were permitted to visit the country and travel freely. The government generally cooperated with international governmental human rights organizations. The ICRC had a delegation in country.

The Senate and National Assembly Standing Committees on Law, Justice, and Human Rights held hearings on a number of issues, including honor crimes, police abuse of the blasphemy law, and the Hudood Ordinance. While the committees served as useful fora to raise public awareness of such issues, their final actions generally adhered to government policy. The Parliamentarians Commission for Human Rights, an interparty caucus of parliamentarians, lobbied effectively for reform in key areas.

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

The law provides for equality for all citizens and broadly prohibits discrimination based on race, religion, caste, residence, or place of birth; however, in practice there was significant discrimination based on these factors.

Women.—Domestic violence was a widespread and serious problem. Husbands frequently beat, and occasionally killed, their wives, and often newly married women were abused and harassed by their in-laws. Dowry and family-related disputes often resulted in death or disfigurement through burning or acid. For example in Peshawar on May 1, Anwar Khan killed his wife Rashida Bibi after she refused to allow the sale of their daughter in marriage to an Afghan national for approximately \$836 (PKR 50 thousand). During the year there were 134 cases of stove deaths, many of these related to disputes with in-laws.

According to the HRCP, one out of every two women was the victim of mental or physical violence. The National Commission on the Status of Women has called for specific domestic violence legislation. In its absence, abusers may be charged with assault, but cases rarely were filed. Police and judges were reluctant to take action in domestic violence cases, viewing it as a family problem. Battered women were usually 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 reluctant to report abuse for fear of dishonoring the family reputation.

The government criticized violence against women. Its Crisis Center for Women in Distress refers abused women to NGOs for assistance. During the year the NGO Struggle for Change (SUCH), which operated a shelter for abused women, provided rehabilitation assistance (shelter, employment counseling, and legal aid) to 49 women. An additional 107 women received legal or financial assistance from SUCH during the year. Provincial governments operated shelters for women in distress at the district level. In some cases, women were abused in the shelters. For example on August 13, Kanwal fell from the roof of the shelter in Hyderabad while trying to escape what other shelter residents reported were abusive conditions. Kanwal died the next day. A preliminary inquiry charged the night staff of the shelter with neglect for failing to provide adequate first aid and for failing to summon medical assistance immediately.

Rape, other than by one's spouse, is a criminal offense. One cannot be prosecuted for marital rape or for rape in cases where a marriage between the perpetrator and victim has been contracted but not solemnized. Although rape was widespread, prosecutions were rare. It is estimated that rape victims reported less than one-third of rape cases to the police. Police were at times implicated in the crime.

On May 3, police allegedly abducted Sonia Naz and detained her for 10 to 12 days, during which time she claimed that the SHO, Jamshed Chishty, raped her on the orders of Abdullah Khalid, Faisalabad Superintendent of Police for Investigation. On April 21, the speaker of the national assembly ordered the arrest of Naz for illegally appearing on the floor of the house to seek assistance for her husband,

who the same police officials had allegedly harassed in connection with an investigation into stolen vehicles. The Speaker ultimately withdrew his complaint on October 7. Police originally refused to file rape charges against the accused, but following a Supreme Court order, on October 12, they arrested the officers for rape. After an initial investigation into the rape incident resulted in conflicting conclusions, including one accusing Naz of falsifying the rape claim, the Supreme Court established a new investigation team of more senior officials that began its work on October 26. Courts cancelled initial bail for Abdullah and Chishti, and the two men surrendered to police on October 18 and 19 respectively. In September the Punjab chief minister suspended both from the police force.

Many rape victims were pressured to drop charges. Police and prosecutors often threatened to charge a victim with adultery or fornication if she could not prove the absence of consent, and there were cases in which rape victims were jailed on such charges. The standard of proof for rape set out in the Hudood Ordinances is based on whether the accused is to be subjected to Koranic or secular punishment. In cases of Koranic punishment, which can result in public flogging or stoning, the victim must produce four adult male Muslim witnesses to the rape or a confession from the accused. No Koranic punishment has ever been applied for rape. The standards of proof are lower for secular punishment, which can include up to 25 years in prison and 30 lashes. Such punishment was applied frequently. Courts, police, and prosecutors at times refused to bring rape cases when Koranic standards of evidence could not be met.

Police often abused or threatened the victim, telling her to drop the case, especially when bribed by the accused. Police requested bribes from some victims prior to lodging rape charges, and investigations were often superficial. Medical personnel were generally untrained in collection of rape evidence and were at times physically or verbally abusive to victims, accusing them of adultery or fornication. Women accused of adultery or fornication were forced to submit to medical exams against their will, even though the law requires their consent. Judges were reluctant to convict rapists, applied varying standards of proof, and at times threatened to convict the victim for adultery or fornication rather than the accused for rape. Families and tribes at times killed rape victims or encouraged them to commit suicide.

On January 2 in Sui, Balochistan, an unknown person broke into the bedroom of and raped Dr. Shazia Khalid, an employee of the Pakistan Petroleum Company. Dr. Shazia was unable to identify her rapist, but Baloch nationalist leaders claimed that frontier corps personnel committed the rape and accused the government of a cover-up. The government maintained that DNA tests ruled out the suspect. In February a tribal *jirga* determined that Dr. Shazia's rape had dishonored the tribe and that she should be murdered. In March Dr. Shazia and her husband departed the country. At year's end the government made no progress in the investigation.

On March 3, the Lahore High Court overturned the conviction and death sentence of five of the six persons convicted in the gang rape of Mukhtiar Bibi and commuted the sentence of the 6th to 25 years in prison. On March 11, the Federal Shariat Court stayed the high court ruling and ordered the defendants released on bail while it reviewed the case. On March 13, the Supreme Court issued a stay on both the high and shariat court rulings but allowed the defendants to remain at large. In early June Mukhtiar announced that she intended to travel overseas to address an international women's rights conference. In response, the government, on the order of President Musharraf, placed her on the ECL, pressured her not to travel, and attempted to block her from obtaining necessary visas. The prime minister ultimately removed Mukhtiar from the ECL on June 15, although she did not travel. On June 28, the Supreme Court decided that it would take jurisdiction of the gang rape case and ordered the five convicted held without bail for the duration of the trial. On the same day, the government ordered the eight originally acquitted in the case held under the Maintenance of Public Order Ordinance as a threat to Mukhtiar Bibi. In October Mukhtiar traveled abroad without incident.

Husbands and male family members often brought spurious adultery and fornication charges against women under the Hudood Ordinances. Even when courts ultimately dismissed charges, the accused spent months, sometimes years, in jail and saw her reputation destroyed. The government's National Commission on the Status of Women advocated the repeal of the Hudood Ordinances. On January 4, President Musharraf signed a bill into law that requires senior police officials to evaluate the merits of adultery and fornication allegations and requires a court order before a woman can be arrested on such charges. The percentage of the female prison population awaiting trial on such Hudood charges declined significantly to approximately 33 percent.

Honor killings and mutilations occurred during the year (see section 1.a.). Women were often the victims at the hands of their husbands or male relatives. No accurate

statistics exist on the number of honor crimes committed during the year. However, human rights groups believed that such incidents were fairly common, with the majority occurring in Sindh. The practice was also common in Punjab and among tribes in Baluchistan, NWFP, and FATA. On January 4, President Musharraf signed a bill into law that provides for additional penalties for all crimes involving honor and restricts the right of victims or heirs to pardon perpetrators in exchange for restitution.

For example, on January 22, in Lahore, Riaz shot and killed his niece Aysha Javed after accusing her of having sexual relations with her neighbor, Mahboob Khan. Riaz also attacked Mahboob Khan's residence, killing his father Yaqoob Khan and seriously injuring his two brothers. Police arrested Riaz and two accomplices, all of whom remained in detention at year's end. On March 21, in Pathan Wah Village, Shikarpur District, Sindh, Yousif shot and killed his new bride Arbeli two hours after their wedding ceremony. He accused his wife of having had sexual relations with her cousin, Abdul Sattar Mirbahar. Yousif and six alleged accomplices remained at large at year's end.

The estimated 100 thousand Bohra Muslims practiced female genital mutilation (FGM). While no statistics on the prevalence of FGM among the Bohras existed, the practice reportedly declined.

Sexual harassment was a widespread problem. While the Pakistan Penal Code prohibits harassment, prosecution was rare.

Prostitution was not legal. Most prostitutes were victims of either domestic or international trafficking and were held against their will. Police raided brothels during the year, but many continued to operate underground particularly in larger cities.

The law prohibits discrimination on the basis of sex; however, in practice this provision was not enforced. Women faced discrimination in family law, property law, and in the judicial system (see section 2.c.). The Hudood Ordinances create judicial discrimination against women. Women's testimony in cases involving proposed Koranic punishment was considered invalid or discounted significantly. In other cases involving property matters or questions of future obligations, a woman's testimony is equal to half that of a man's testimony.

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 were often left with no means of support and were ostracized by their families. While 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 only half the inheritance of male children. Wives inherit only one-eighth of their husband's estate. Women often received far less than their legal inheritance entitlement. In rural Sindh landowning families continued the practice of "Koranic marriages" in an effort 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 over 14 years of age.

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.

The government's Ministry for the Advancement of Women lacked sufficient staff and resources to function effectively. Continuing government inaction in filling vacant seats on the National Commission for the Status of Women hampered its efficacy. During visits to New Zealand in June and the United States in September, President Musharraf criticized domestic and international women's organizations for highlighting the issue of rape and violence against women in the country. In an interview with the *Washington Post*, the president stated that rape was becoming a "money making concern," and "a lot of people say that if you want to go abroad and get a visa from Canada or citizenship and be a millionaire, get yourself raped." He made similar remarks during a government-sponsored conference on women's rights in Islamabad in September.

Numerous women's rights groups such as the Progressive Women's Association, Struggle for Change, and Aurat Foundation were active in urban areas. Primary issues of concern included domestic violence, the Hudood Ordinances, and honor crimes.

Children.—The government does not demonstrate a strong commitment to children's rights and welfare through its laws and programs. There is no federal law on compulsory education. Public education is free; however, fees were charged for books, supplies, and uniforms. Public schools, particularly beyond the primary grades, were not available in many rural areas, leading parents to use the parallel private Islamic school (*madrassa*) system. In urban areas many parents sent children to private schools due to the lack of facilities and poor quality of education offered by the public system.

According to a foreign aid organization, of the 18 million children between the ages of 5 and 9, only 42 percent were in school. Less than half of children who enrolled completed more than five years of education. Out of every 100 children who enrolled, only 6 completed grade 12. The national literacy rate of 38 percent showed a significant gap between males (50 percent) and females (24 percent) due to historical discrimination against educating girls. While anecdotal evidence suggested increasing female participation in education, such discrimination continued, particularly in rural areas. The UN estimated that 7 thousand of the 12 thousand schools in the affected areas were destroyed or damaged beyond repair in the October 8 earthquake.

Madrassas served as an alternative to the public school system in many areas. Many madrassas failed to provide an adequate education, focusing solely on Islamic studies. Graduates were often unable to find employment. A few madrassas, particularly in the Afghan border area, reportedly continued to teach religious extremism and violence. The government continued its efforts to modernize madrassa education during the year. An agreement was reached with the country's 5 independent madrassa boards to register the 85 percent of madrassas under their control and to introduce a modern educational curriculum. Government funding has been allocated in the budget to assist with teacher training.

At the vast majority of madrassas, students were reasonably well treated. However, press reports claimed that there were some madrassas where children were confined illegally, kept in unhealthy conditions, and physically or sexually abused.

Child health care services remained seriously inadequate. According to the National Institute of Child Health Care, more than 70 percent of deaths between birth and the age of 5 years were caused by easily preventable ailments such as diarrhea and malnutrition. While boys and girls had equal access to government facilities, families were more likely to seek medical assistance for boys. Children were also the most affected by the October 8 earthquake, where the UN Children's Fund (UNICEF) estimated that half of the 73 thousand deaths were children. NGOs estimated that approximately 2 million children were adversely affected in the NWFP and the Azad Jammu Kashmir quake zone.

Child abuse was widespread. According to child rights NGOs, abuse was most common within families. In rural areas, poor parents sold children as bonded laborers (see section 6.d.) and at times sold daughters to be raped by landlords. The legal age of marriage for males is 18, and 16 for females, and there are no provisions to allow marriages at a lower legal age with parental consent. No credible statistics were available on the frequency of child marriage, but NGOs agreed that it was a problem, especially in the Dir and Swat districts of the NWFP, where the sale or trading of girls as young as 11 into marriage was reportedly common practice among the Pashtun subtribes.

Trafficking and commercial sexual exploitation were problems (see section 5, Trafficking).

Child labor was a significant problem (see section 6.d.).

NGOs like Sahil, Sparc, and Rozan worked on child labor, child sexual abuse, and child trafficking. NGOs played an important role in providing counseling and medical services to victims and in raising awareness of these problems.

Trafficking in Persons.—The law prohibits trafficking in persons; however, trafficking was a serious problem. All forms of trafficking are prohibited under the Prevention and Control of Human Trafficking, Ordinance 2002, and maximum penalties range from 7 to 14 years' imprisonment plus fines. The government arrested 513 suspected traffickers and prosecuted 179 under the ordinance during the year. The Federal Investigation Agency's (FIA) dedicated ATU had primary responsibility for combating trafficking. An Inter-Ministerial Committee on Human Trafficking and Smuggling coordinated federal efforts. The government assisted other countries with international investigations of trafficking.

Although no accurate statistics on trafficking existed, the country was a source, transit, and destination country for trafficked persons. Women and girls were trafficked from Bangladesh, Afghanistan, Iran, Burma, Nepal, and Central Asia for forced commercial sexual exploitation and bonded labor in the country based on erroneous promises of legitimate jobs. In a similar fashion, men and women were traf-

ficked from the country to the Middle East to work as bonded laborers or in domestic servitude. Upon arrival, both groups had passports confiscated and were forced to work to pay off their transportation debt. Families continued to sell young boys between ages 3 and 10 for use as camel jockeys in Middle Eastern countries, and authorities estimated that there were between two to three thousand child citizens in the UAE being used as camel jockeys. Women and children from rural areas were trafficked to urban centers for commercial sexual exploitation and labor. In some cases families sold these victims into servitude, while in other cases they were kidnapped. Women were trafficked from East Asian countries and Bangladesh to the Middle East via the country. Traffickers bribed police and immigration officials to facilitate passage. During the year authorities prosecuted governmental officers and arrested FIA inspectors. A complete tally of such actions was not available.

The government rescued some kidnapped victims. The Overseas Pakistani Foundation and the Ansar Burney Welfare Trust repatriated 13,967 citizens trafficked to the Middle East. Of these, 147 were camel jockeys from the UAE and 10,584 were laborers from Oman. In March the government opened its first model shelter specifically for trafficking victims. There were 276 additional district-run emergency centers for women in distress where they were sheltered and given access to medical treatment, limited legal representation, and some vocational training. The government provided temporary residence status to foreign trafficking victims. The FIA and the International Organization for Migration held training and seminars on trafficking for government officials and NGOs during the year. The Interior Minister personally was engaged in such efforts. Very few NGOs dealt specifically with trafficking; however, many local and provincial NGOs provided shelter to victims of trafficking and those at risk for trafficking.

With the establishment of a dedicated ATU, treatment of trafficking victims improved significantly. Unlike in previous years, there were no reports of police treating trafficking victims as criminals or threatening them with prosecution for adultery or fornication. Foreign victims, particularly Bangladeshis, faced difficulties in obtaining repatriation to their home countries. Women trafficked abroad and sexually exploited faced societal discrimination on their repatriation.

Several NGOs held workshops on trafficking during the year, and the government and NGOs worked to publicize the plight of camel jockeys and discourage the continuation of the practice.

Persons with Disabilities.—The government has not enacted legislation or otherwise mandated access to buildings or government services for persons with disabilities. Families cared for the vast majority of persons with physical and mental disabilities. However, in some cases these individuals were forced into begging, and organized criminals took much of the proceeds. There is a legal provision requiring public and private organizations to reserve at least 2 percent of their jobs for qualified persons with disabilities. Organizations that do not wish to hire persons with disabilities instead can give a certain amount of money to the government treasury, which uses funds for persons with disabilities. This obligation was rarely enforced. The National Council for the Rehabilitation of the Disabled provided some job placement and loan facilities. Mentally ill prisoners normally lacked adequate care and were not segregated from the general prison population (see section 1.c.).

Other Societal Abuses and Discrimination.—Homosexual intercourse is a criminal offense; however, the government rarely prosecuted cases.

Homosexuals did not reveal openly their sexual orientation, and there were no allegations during the year of discrimination on the basis of sexual orientation.

Those suffering from HIV/AIDS faced broad societal discrimination. While the government has launched education and prevention campaigns, these have done little to protect victims.

The Shi'a, Christian, Hindu, and Ahmadi communities all faced discrimination and societal violence (see section 2.c.).

Section 6. Worker Rights

a. The Right of Association.—The Industrial Relations Ordinance (IRO) provides industrial workers the right to form trade unions. The Essential Services Maintenance Act (ESMA), which applies to the security forces, most of the civil service, health care workers, and safety and security personnel at petroleum companies, airports, and seaports, was often invoked to limit or ban strikes or curtail collective bargaining rights. Agricultural workers, nonprofit workers, and teachers, among others, are not afforded the right to unionize. According to government estimates, union members were approximately 10 percent of the industrial labor force and 3 percent of the total estimated work force; however, unions claimed that the number of union members was underestimated.

b. The Right to Organize and Bargain Collectively.—In those sectors covered by the IRO, the government allowed unions to conduct their activities without interference. The IRO protects the right to collective bargaining subject to restrictions but limits the right of unions to strike. The IRO allows only one union to serve as the collective bargaining agent within a given establishment, group of establishments, or industry. In cases where more than one union exists, the IRO establishes a secret balloting procedure to determine which union shall be registered as agent.

Legally required conciliation proceedings and cooling-off periods constrain the right to strike, as does the government's authority to end any strike that may cause "serious hardship to the community," prejudice the national interest, or has continued for 30 days. The government can and has prohibited all strikes by public utility services under the IRO. The law prohibits employers from seeking retribution against leaders of a legal strike and stipulates fines for offenders. The law does not protect leaders of illegal strikes.

Several small strikes occurred during the year. For example in May and June, Pakistan Telecommunications workers' unions held brief nationwide strikes to protest privatization of the company. The strikes ceased after negotiations with the government.

National labor laws require the government to determine every six months whether collective bargaining is to be allowed. In cases where collective bargaining was prohibited, special wage boards decided wage levels. Such boards were established at the provincial level and were composed of representatives from industry, labor, and the provincial labor ministry. Unions generally were dissatisfied with the boards' findings. Disputes were adjudicated before the National Industrial Relations Commission.

The estimated 12,500 employees working in Pakistan's three Export Processing Zones (EPZs) are exempted by the ESMA from the protection and right to form trade unions provided by the IRO. The Export Processing Zone Authority drafts labor laws within the EPZs.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or bonded labor, including by children; however, the government did not enforce these prohibitions effectively. The Bonded Labor System Abolition Act (BLAA) outlaws bonded labor, cancels all existing bonded debts, and forbids lawsuits for the recovery of such debts. The act makes bonded labor by children punishable by up to 5 years in prison and up to \$833 (PKR 50 thousand) in fines.

Realistic statistics on bonded labor were difficult to obtain. Estimates suggested that 5 to 20 million persons were involved in some form of bonded labor, which was common in the brick, glass, carpet, and fishing industries. In rural areas, particularly in the Tharparkar District of Sindh, bonded labor in the agricultural and construction sectors was fairly widespread. A large proportion of bonded laborers were low caste Hindus, or Muslim and Christian descendants of low-caste Hindus. Bonded laborers were often unable to determine when their debts were fully paid. Those who escaped often faced retaliation from former employers. Some bonded laborers returned to their former status after being freed due to a lack of alternative livelihoods. Although the police arrested violators of the law against bonded labor, many such individuals bribed the police to release them. Human rights groups reported that landlords in rural Sindh maintained as many as 50 private jails housing approximately 4,500 bonded laborers. Ties between such landlords and influential politicians hampered effective elimination of bonded labor.

d. Prohibition of Child Labor and Minimum Age for Employment.—The government has adopted laws and promulgated policies to protect children from exploitation in the workplace; however, enforcement of child labor laws was lax, and child labor was a serious problem. The Ministry of Labor has identified 35 hazardous forms of child labor, including street vending, surgical instrument manufacturing, deep-sea fishing, leather manufacturing, brick making, and carpet weaving, among others. Child labor in agriculture and domestic work was also common.

Forced and bonded labor, sexual exploitation, and the trafficking of children occurred (see section 5).

The Employment of Children Act prohibits the employment of children under age 14 years in factories, mines, and other hazardous occupations and regulates their conditions of work. For example no child is allowed to work overtime or at night; however, there were few child labor inspectors in most districts, and the inspectors often had little training, insufficient resources, and were susceptible to corruption. By law inspectors may not inspect facilities that employ less than 10 persons, where most child labor occurs.

Hundreds of convictions were obtained for violations of child labor laws, but low fines levied by the courts—ranging from an average of \$6 (PKR 364) in the NWFP

to an average of \$121 (PKR 7,280) in Baluchistan—were not a significant deterrent. The Employment of Children Act allows for fines of up to \$333 (PKR 20 thousand). Penalties often were not imposed on those found to be violating child labor laws.

The International Labor Organization—International Program for the Elimination of Child Labor (ILO–IPEC) continued programs in the carpet weaving, surgical instrument, rag picking, and deep-sea fishing industries and launched a Time Bound Program for the Elimination of the Worst Forms of Child Labor. Working with industries and the government, ILO–IPEC used a combination of monitoring, educational access, rehabilitation, and family member employment to transition children out of these industries.

e. Acceptable Conditions of Work.—The national minimum wage for unskilled workers was \$42 (PKR 2,500) per month. It applies only to industrial and commercial establishments employing 50 or more workers. The national minimum wage did not provide a decent standard of living for a worker and family. Additional benefits required by 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 worker's welfare fund.

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.

Health and safety standards were poor. There was a serious lack of adherence to mine safety and health protocols. For example, mines often only had 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 all labor regulations. Enforcement was ineffective due to limited resources, corruption, and inadequate regulatory structures. Many workers were unaware of their rights.

SRI LANKA

Sri Lanka is a constitutional, multiparty republic with a population of approximately 20 million. President Mahinda Rajapaksa, elected on November 17 to a 6-year term, and the 225-member parliament, elected in April 2004 also for a 6-year term, share constitutional power. According to the preliminary report of the European Union Election Observation Mission (EUEOM), the November 17 presidential election was generally conducted in a professional and impartial manner, with the exception of the boycott enforced by the Liberation Tigers of Tamil Eelam (LTTE) in the north and east, and was deemed an improvement over the 2004 election. From 1983 until 2001, the government fought the Liberation Tigers of Tamil Eelam (LTTE), a terrorist organization that advocated a separate ethnic Tamil state in the north and east of the country. In 2001, the government and the LTTE announced unilateral cease-fires and signed a formal cease-fire accord in 2002. In 2003 after participating in six rounds of talks facilitated by the Norwegian government, the LTTE suspended the negotiations. The civilian authorities generally maintained effective control of the security forces, although some members of the security forces committed serious human rights abuses.

The government generally respected the human rights of its citizens, although serious problems remained. During the year both the government and the LTTE frequently violated the 2002 peace accord. According to Sri Lanka Monitoring Mission (SLMM) statistics, the LTTE committed 14 cease-fire violations for every 1 committed by the government. Civilian deaths due to land mines were drastically reduced through a nationally coordinated humanitarian demining effort. The government enacted emergency regulations three times during the year: twice following the December 2004 tsunami, and once following the August 12 killing of Foreign Minister Lakshman Kadirgamar. The emergency regulations, which remained in effect at year's end, permit arrests without warrant and nonaccountable detentions for up to 12 months. The following human rights problems were reported:

- unlawful killings by government agents
- high-profile killings by unknown actors
- politically motivated killings by paramilitary forces and the LTTE
- disappearances
- arbitrary arrest and detention
- torture

- poor prison conditions
- denial of fair public trial
- government corruption and lack of transparency
- infringement of religious freedom
- infringement of freedom of movement
- discrimination against minorities

There were numerous reports that armed paramilitary groups, suspected of being linked to the government or security forces, participated in armed attacks during the year. These groups included the Karuna faction of the LTTE, the Eelam People's Democratic Party (EPDP), and the People's Liberation Organization of Tamil Eelam (PLOTE). The LTTE continued to control large sections of the north and east and engaged in politically motivated killings, disappearances, torture, arbitrary arrest and detention, denial of fair public trial, arbitrary interference with privacy, denial of freedom of speech, press, of assembly and association, and the recruitment of child soldiers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no confirmed reports of politically motivated killings by the government; however, it was often alleged that paramilitary groups, sometimes with the aid of the government, engaged in targeted killings of political opponents. The government and the army denied the allegations. Human rights organizations and other sources reported an increase in encounter killings by police. At year's end the Human Rights Commission (HRC) reported that police killed 25 individuals in police custody. The HRC determined that 20 of those individuals died as a result of torture in police custody during the year (see section 1.c.).

On February 5, police arrested Polwatta Ratubaduge Ajiith Wishantna for his role in the November 2004 shooting death of Gerald Perera. Authorities had tortured Perera while he was in custody in 2002 and killed him in November 2004 after he had complained to police and human rights monitors about his treatment at the hands of the police. Three of the seven police officers accused of torturing Perera in 2002 admitted that they had Perera killed because they feared his testimony would lead to their imprisonment. At year's end six officers implicated in the conspiracy remained in custody.

On March 25, in Kalutara District, two police officers from the Panadura police station beat Nallawarige Sandasirilal Fernando unconscious while trying to arrest his brother. On March 28, Fernando died in a local hospital. Authorities indicted two police officers, but at year's end the officers remained on duty.

On April 10, in Colombo District, Maharagama police allegedly pulled Don Wijerathna Munasinghe from his three-wheel taxi for failing to stop. The officers beat him in front of his wife and son, and then again in custody. On April 11, Munasinghe was released, but he subsequently died on April 16 from injuries sustained during the police beating. At year's end the case was referred to the attorney general's department for further action, and the three police constables accused of the beating remained on duty.

On April 18, in Ratnapura District, five police officers from the Rakwana police station arrested Helwala Langachcharige Susantha Kulatunga and reportedly beat him while he was in custody. On April 20, a day after two policemen told Kulatunga's daughters that they would never see their father again, Kulatunga was found dead, hanging from the prison-cell door, with his knees on the ground and his hands tied behind his back (see section 1. c.). A postmortem found 107 injuries across his body but no neck trauma. An investigation was ongoing, but at year's end no arrests were made.

On July 4, five suspects were found guilty and sentenced to death for the November 2004 killing of high court judge Sarath Ambepitiya and his bodyguard.

There were no developments in the February 2004 shooting death of Bellanavithanage Sanath Yasarithne.

There were no developments in the April 2004 custodial killing of Muthuthanthrige Chamal Ranjith Cooray or in the October 2004 killing, allegedly by police, of Herman Quintus Perera.

There were several reports of high profile killings by unknown actors during the year. For example, on February 7, unknown gunmen killed E. Kausalyan, political head of the Batticaloa-Amparai division of the LTTE, and former Tamil National Alliance (TNA) parliamentarian A.C. Nehru. Unknown persons sprayed the vehicle

with automatic weapons, killing the two men and their LTTE bodyguards after their van passed a military checkpoint on a government-controlled road in Polonnaruwa District. The LTTE blamed military intelligence for colluding with the breakaway Karuna faction and other paramilitaries in the killing.

On April 28, four men abducted prominent Tamil journalist and editor of *Tamilnet*, Sivaram Dharmaratnam, in front of a Colombo police station. Dharmaratnam's bound and gagged corpse was found with a bullet wound in the head the following morning inside the high security zone surrounding parliament. The LTTE claimed military intelligence and paramilitary forces were responsible for the killing. On June 13, police arrested ex-PLOTE commander Arumugam Sriskandarajan for the killing, and at year's end he was awaiting trial.

On December 24, unidentified gunmen shot and killed TNA parliamentarian Joseph Pararajasingham while he was attending midnight mass at St. Mary's cathedral in Batticaloa. The LTTE accused government security forces of conspiring with paramilitaries in the killing. At year's end police had made no arrests.

On May 27, the Supreme Court acquitted 4 defendants, including 1 police officer, involved in the 2000 killing of 27 Tamil inmates at the Bindunuwewa rehabilitation camp. The court acquitted the men because the defendants' guilt had not been proved beyond a reasonable doubt. In June 2004 the Supreme Court acquitted another defendant in the case, police officer Tyronne Ratnayake, citing insufficient evidence. In a public statement issued on June 2, Human Rights Watch called on the government to reopen the investigation to identify those responsible for the killings and pointed out that although the presidential commission investigating the killings at Bindunuwewa cited the local police commanders for dereliction of duty, these officers were not indicted or punished.

b. Disappearance.—The HRC reported 25 instances of politically motivated disappearances at the hands of the security forces during the year, and 10 instances by paramilitary forces allegedly tied to the government (see section 1.a.).

There were no developments in any of the unclassified disappearance cases cited by the 2000 UN Working Group on Enforced or Involuntary Disappearances; neither was there any effort put forward by the government to gather information on these cases. During the year the cabinet refused a 2004 request to compensate the next of kin of 960 missing persons and denied the request to compensate the next of kin of another 594 missing persons due to a lack of death certificates. Since 2000, 12 disappearances from previous years were reported by the UN Working Group, 7 of which were still pending. There have been no developments in these cases.

In 2004 a government commission investigating disappearances that occurred in Jaffna in 1996–97 issued letters to next of kin confirming that after being arrested by security forces, the victims disappeared. Next of kin have used these letters to support habeas corpus cases, and at year's end there were 55 cases pending.

At year's end the HRC continued to investigate 16,305 past cases of disappearance by security forces, some of which have been pending for 10 years. There were no indictments, investigations, or prosecutions of security force personnel for past disappearances. Regional commissions, 3 established in 1994 and a fourth established in 1998, reported 21,215 disappearances between 1988 and 1994, most of which occurred during the 1988–89 period of the Janatha Vimukthi Peramuna (People's Liberation Front-JVP) uprising. The commissions found that many persons disappeared after having been removed involuntarily from their homes, in most cases by security forces. There were no developments in any of these cases during the year, and little activity to bring any of them to prosecution.

During the year the LTTE continued to detain civilians, often holding them for ransom (see section 1.g.). For example, at year's end, there were more than 97 reports that the LTTE had abducted adults according to the SLMM.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law makes torture a punishable offense but does not implement several provisions of the UN Convention Against Torture. Human rights groups maintained that while torture is prohibited under specific circumstances, it was allowed under others. According to the HRC and other credible sources, the use of police torture to extract admissions and confessions was endemic and conducted with impunity. In addition the Emergency Regulations make confessions obtained under any circumstance, including by torture, sufficient to hold a person until the individual is brought to court; 1,798 arrests were made under the Emergency Regulations during the year, although 1,236 of those arrested were released within 12 hours. The majority of those arrested were Tamil, although detainees included Sinhalese and Muslims as well. In addition to suspicion of terrorism, people were detained for lack of identification, narcotics, and outstanding warrants (see section 1.d.).

Methods of torture included beatings—often with sticks, iron bars or hose—electric shock, suspending individuals by the wrists or feet in contorted positions, burning, genital abuse, and near-drowning. Detainees reported broken bones and other serious injuries as a result of their mistreatment, and during the year deaths occurred in police custody (see section 1.a.).

On October 10, the trial began of three police officers indicted by the Kurunegala High Court for allegedly torturing and sexually abusing Nandini Herat in 2002, and at year's end the trial was in progress. The government continued to investigate seven past cases of rape committed by security forces.

Of the 634 allegations of police torture, the majority of complaints came from police stations outside the north and east. The government continued to investigate 183 past cases of torture.

There were credible nongovernmental organization (NGO) reports that police tortured individuals in custody. For example, the Asian Human Rights Commission (AHRC) reported that on May 19, Hevana Hennadige Priyadarshana Fernando was kicked and beaten at the Panadura police station in Kalutara District. Fernando was later released on bail, and the magistrate was informed of the torture incident. At year's end no charges were filed against the officers responsible for torturing Fernando, although the original charges against Fernando remained.

On June 11, Jayasekara Vithanage Saman Priyankara reported harassment and intimidation regarding his January 2004 complaint of police torture at the Matale police station. At year's end there were no developments in his case.

On July 11, according to the AHRC, tuberculosis patient Thummiya Hakura Sarath testified that in February 2004 subinspector Silva of the Welipenna police station forced Sarath to spit into the mouth of Palitha Tissa Kumara Koralliyanaage, who was in custody and whom subinspector Silva was torturing. The Supreme Court had not heard Koralliyanaage's case, which was pending at year's end.

Special sections of the attorney general's office and the criminal investigation unit focused on torture complaints. During the year the units forwarded 63 cases for indictments, in which 1 resulted in an indictment, 2 were dismissed, and the other 59 were pending. The interparliamentary permanent standing committee and its interministerial working group on human rights issues also continued to track criminal investigations of torture.

In June 2004 the HRC established a torture prevention monitoring unit to implement its "zero tolerance" torture policy (see section 4). The HRC provided extra training for officers assigned to this unit and established a policy of quick investigation for torture complaints. The HRC also assigned special teams to investigate deaths in police custody. By year's end the HRC had opened cases on 634 torture complaints.

Prison and Detention Center Conditions.—Prison conditions did not meet international standards due to acute overcrowding and lack of sanitary facilities. In some cases juveniles were not held separately from adults. Pretrial detainees were not held separately from those convicted.

The government permitted visits by independent human rights observers, and the International Committee of the Red Cross (ICRC) conducted 192 visits to 24 permanent places of detention, including prisons and some police stations. The national office of the HRC did not provide information on visits to detention centers.

The ICRC conducted 22 visits to 3 LTTE-controlled prison facilities and 53 visits to 17 LTTE-operated police stations. Credible observers reported that conditions in these prisons were on par with local standards (see section 1.d.).

d. Arbitrary Arrest or Detention.—The law prohibits arbitrary arrest and detention; however, such incidents occurred. There were 1,798 arrests while the emergency regulations were active. The government stated that most of those arrested were released within a few days.

Role of the Police and Security Apparatus.—Following the November 17 presidential election, the government eliminated the Ministry of Internal Security and placed control of the 66-thousand-member police force, which includes the 6,000-member paramilitary Special Task Force, under the Ministry of Defense. Senior officials in the police force handle complaints against the police, as does the civilian-staffed National Police Commission (NPC). Few police officers serving in Tamil majority areas were Tamil. These officers generally did not speak Tamil or English, which increased the level of misunderstanding and distrust.

Impunity, particularly for cases of police torture, was a severe problem. For example, on October 3, Inspector General of Police Chandra Fernando refused the NPC's recommendation to suspend or indict 96 police officers for acts of torture. By year's end 61 of those officers had been reprimanded and transferred to other stations, and

the 35 others were removed or had left the police. Several NGOs claimed that corruption was also a problem in the police force.

For example, on October 25, following the arrests of 25 prostitutes and the 2 men who operated the brothel that housed them, the deputy inspector general (DIG) of police responsible for Nugegoda ordered the Assistant Superintendent of Police (ASP), who led the raid, to release all of those arrested. The ASP refused, processed the arrested persons, and complained to higher authorities. In the ensuing investigation, authorities learned that the DIG received \$6 thousand (approximately SLR 613 thousand) per month to allow the brothel to operate. At year's end authorities had not charged the DIG, and no action was taken against him.

The NPC, composed entirely of civilians, was authorized to appoint, promote, transfer, discipline, and dismiss all police officers, except for the inspector general of police. The NPC also has the power to establish procedures to investigate public complaints against the police. In practice, however, the NPC devolved responsibility for discipline of less senior police officers to the inspector. During the year the NPC handled 187 cases of police torture. Criminal proceedings were initiated in 42 cases, while 86 others were closed due to insufficient evidence. On November 22, the 3-year term of the NPC lapsed. By year's end the government had not appointed new commissioners to the NPC.

Arrest and Detention.—Under the law, authorities must inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours, but in practice, detained persons generally appeared within a few days before a magistrate. A magistrate may authorize bail for bailable and many nonbailable offences or may order 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 must remand the suspect, and only the high court may 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.

On August 18, following the assassination of the foreign minister, parliament approved Emergency Regulations, giving power of arrest to members of the armed forces, who were required to turn suspects over to the police within 24 hours. Individuals arrested under the Emergency Regulations may be detained for up to a year without trial.

In the majority of cases in which security force personnel may have committed human rights abuses, the government had not identified those responsible or brought them to justice. Human rights organizations noted that some judges were hesitant to convict on cases of torture because of a 7-year mandatory sentence for committing torture. There was no witness protection program. According to human rights organizations, obtaining medical evidence was difficult, as there were only 25 forensic specialists, and medical practitioners untrained in the field of torture assessment examined most torture victims. In some cases doctors were intimidated by police, making accurate medical reporting on torture victims difficult.

The HRC investigated the legality of detention in cases referred to it by the Supreme Court and by private citizens. There were no reports of political detainees.

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

The president 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. Judges may be removed for misbehavior or incapacity but only after an investigation followed by joint action of the president and the parliament.

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 it does not provide counsel in other cases. Private legal aid organizations assisted some defendants. In addition the legal aid commission offered legal aid to assist those who could not afford representation; however, some sources reported that its representatives extorted money from beneficiaries. There are no jury trials in cases brought under the Prevention of Terrorism Act (PTA). Defendants are presumed innocent, and confessions obtained by various coercive means, including torture, are inadmissible in all criminal proceedings except PTA cases. Defendants bear the burden of proof to show that their confessions were obtained by coercion. Defendants in PTA cases have the right to appeal. 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 were made relatively quickly.

Despite the law calling for court proceedings and other legislation to be available in English, Sinhala, and Tamil, most court proceedings outside of Jaffna and the northern parts of the country were conducted in English or Sinhala, which, due to a shortage of court-appointed interpreters, restricted the ability of Tamil-speaking defendants to get a fair hearing. Trials and hearings in the north were in Tamil and English. While Tamil-speaking judges existed at the magistrate level, only four high court judges, one appeals court judge, and one supreme court justice spoke fluent Tamil. Few legal textbooks existed in Tamil, and the government had not complied with legislation requiring that all laws be gazetted and published in English, Sinhala, and Tamil.

In August 2004 the UN Human Rights Committee (UNHRC) found that Nallaratnam Singarasa's right to a fair trial had been violated when in 1993 he was tortured and forced to put his thumb print on a confession that he could not read. The UNHRC called for his release or retrial and gave the government 90 days to respond. On February 2, the government replied that the law does not provide for release or retrial after the conviction is affirmed by the high court. At year's end Singarasa remained in prison, and his legal team was preparing a fundamental rights case for the Supreme Court.

In 2003 the Supreme Court convicted Tony Fernando on a contempt of court charge for both filing numerous motions before the court and for raising his voice. Fernando was sent to jail the same day only to be released more than eight months later. Fernando was never given the opportunity to consult a lawyer, prepare a defense, or file an appeal. On March 31, the UNHRC found that the government was in breach of its obligations under the International Covenant on Civil and Political Rights and ordered the government to enact legislative changes to ensure that similar violations did not occur again, as well as compensation for Fernando (see section 2.a.). At year's end the government had taken no action, and Fernando had yet to receive any compensation.

The government permits the continued existence of certain aspects of personal laws discriminating against women in regard to age of marriage, divorce, and devolution of property (see section 5).

During the year the LTTE continued to operate its own court system. The LTTE demanded that all Tamil civilians stop using the government's judicial system and rely only on the LTTE's legal system. Credible reports indicated that the LTTE used the threat of force to back this demand.

The LTTE's legal system is composed of judges with little or no legal training. LTTE courts operated without codified or defined legal authority and essentially as agents of the LTTE rather than as an independent judiciary. On September 7, the LTTE arrested three police officers from the National Child Protection Agency (NCPA) when they entered LTTE-controlled territory while pursuing a suspect. A LTTE judge in Kilinochchi remanded the men for trial on unspecified charges. At year's end the officers remained in LTTE custody, and no trial date was given.

Political Prisoners.—There were no reports of government-held political prisoners. The LTTE reportedly held a number of political prisoners; however, the number was impossible to determine because of the secretive nature of the organization, and the LTTE refused to allow the ICRC access to these prisoners (see section 1.c.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for the right to privacy, and the government generally respected this provision in practice; however, it infringed on citizens' privacy rights in some areas. Police generally obtained proper warrants for arrests and searches conducted under ordinary law. Following grenade attacks on security forces in the north and east during the summer, cordon and search operations were regularly conducted on nearby houses for 10 days after each attack.

The LTTE routinely interfered with the privacy of citizens by maintaining an effective network of informants.

g. Use of Excessive Force and Other Abuses in Internal Conflicts.—The LTTE routinely used excessive force in the war, including attacks targeting civilians. Since the peace process began in 2001, the LTTE has engaged in targeted killings, kidnapping, hijackings of truck shipments, and forcible recruitment, including of children.

There were regular reports that the LTTE expropriated food, fuel, and other items meant for internally displaced persons (IDPs) from both the conflict with the government and the December 2004 tsunami.

During the year there were credible reports that LTTE killed 68 members of the police and military, more than 106 members of anti-LTTE Tamil paramilitary groups, LTTE cadres loyal to the Karuna faction, alleged Tamil informants for the

security forces, and civilians. The LTTE targeted both current and former members of anti-LTTE Tamil political parties. During the year 18 current and past anti-LTTE Eelam People's Democratic Party (EPDP) members were killed. Credible sources indicated that the LTTE killed 45 members of the breakaway military leader Karuna's group. There was also credible evidence that the LTTE killed 15 members of the military intelligence apparatus in a targeted campaign.

On May 31, two gunmen on a motorcycle shot and killed Major Nizam Muthalif, commanding officer of the 1st Intelligence Battalion, while his car was stopped at a traffic light in Colombo. The army accused the LTTE of the killing.

On August 12, a suspected LTTE sniper shot and killed Foreign Minister Lakshman Kadirgamar at his residence. The government accused the LTTE of carrying out the killing, a charge the LTTE denied. At year's end the case remained under investigation.

On October 9, 30 armed LTTE cadres abducted 7 civilians (2 Sinhalese, 5 Muslim) while they were collecting firewood. The LTTE demanded a ransom of approximately \$347 (SLR 35 thousand) each. All seven were released after a single payment was made by their families.

On December 4, the LTTE detonated a claymore mine killing 12 army personnel on patrol in Jaffna.

On December 23, the LTTE attacked naval vehicles in Mannar with 2 claymore mines, killing 14 navy personnel.

On December 27, the LTTE attacked a bus full of soldiers with a claymore mine, killing 10. No arrests were made in any of these attacks.

Gunmen from Karuna's paramilitary group allegedly killed 27 LTTE cadres, including E. Kausalyan, the LTTE political leader for Batticaloa, and Sebastiampillai Jeyachandran, the LTTE political leader for Trincomalee. Karuna's group was believed also to have killed 20 civilians, including the April 15 killing of Thirukkivil divisional secretary A.K. Thavaraja and the June 29 killing of newspaper distributor Arasakumar Kannamuthu (see section 2.a.). There were reports that the government provided protection and military aid to Karuna and his cadres to assist them in their fight against LTTE cadre. The government denied any connection to Karuna and his cadres.

Landmines were a serious problem in Jaffna and the Vanni region in the northern part of the country and, to some extent, in the east (see section 5). Landmines, booby traps, and unexploded ordnance posed a problem to resettlement of IDPs and rebuilding. The government reported seven mine-related deaths and four mine-related injuries, all of which occurred when persons crossed into clearly marked hazard areas. Some humanitarian demining operations in the north were suspended due to increasing violence and had not resumed by the end of the year.

The LTTE forcibly recruited 543 children during the year (see section 6.d.). However, the LTTE also released 202 children, at least 96 of whom were again recruited. There were intermittent reports of children as young as eight years escaping from LTTE camps.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet. Individuals could criticize the government without fear of reprisal. The Emergency Regulations, enacted on August 18, allow the government to stop the publication, distribution, showing, performance or broadcast of any book, magazine, newspaper, poster, movie, play, song, radio or television program that it finds likely to cause public disorder; however, it did not enact any of these provisions during the year.

Although the government owned the country's largest newspaper chain, two major television stations, and a radio station, private owners operated a variety of independent, privately owned newspapers, journals, and radio and television stations. Several foreign media outlets operated in the country. Most independent media houses freely criticized the government and its policies. The government imposed no political restrictions on the establishment of new media enterprises.

There were reports that journalists, especially those in the eastern part of the country, practiced self-censorship due to pressure from both the security forces and the LTTE. In its preliminary report on the November 17 presidential election, the EUEOM reported that government-owned media gave biased coverage in favor of the Sri Lankan Freedom Party candidate, Mahinda Rajapaksa. In its final report on the April 2004 election, the EUEOM reported the government-owned media displayed an evident bias towards the president's United People's Freedom Alliance (UPFA) coalition and disregarded its duty to provide equitable and fair coverage of the election contestants.

On March 28, police raided the Colombo premises of the English-language weekly *Sunday Leader*, known for its investigative reporting. Reporters Without Borders quoted the weekly's publisher, Lasantha Wikramatunga, as saying that police did not have a warrant and that the search was part of the government's ongoing harassment of the weekly.

On July 26, a senior defense correspondent for *the Sunday Leader* reported that President Chandrika Kumaratunga threatened to use the Official Secrets Act (OSA) against him for his critical reporting on government plans to purchase defense equipment from a foreign government. The OSA allows the minister of defense to prohibit access to certain locations and facilities, and to bar photography and reporting about secret information. Under the law, those convicted of gathering secret information can be subject to a prison term of up to 14 years.

On June 2 and September 13, members of the LTTE allegedly threw grenades at the TELO-operated television retransmission station in Vavuniya district.

On August 20 and 29, unknown assailants threw grenades at the Colombo printing and advertising offices of the pro-LTTE newspaper *Sudar Oli*, killing a security guard on August 20. Some press coverage of the incident speculated that members of the Janatha Vimukthi Peramuna (JVP) were responsible for the incident.

On November 17, in accordance with the law, the independent election commission took control of government-owned television and radio until the declaration of election results.

There were no developments in the December 2004 attacks on the Tamil daily *Thinakkural* or the MTV/MBC transmitter.

The LTTE tightly restricted the print and broadcast media in areas under its control. There were also reports of LTTE intimidation of Colombo-based Tamil journalists, and self-censorship was common for journalists covering LTTE-controlled areas. On August 12, unknown gunmen shot and killed journalist Relangi Selvarajah and her husband in Colombo. Selvarajah hosted a popular Tamil language program highly critical of the LTTE. Her husband was an ex-member of the PLOTE paramilitary group.

On June 29 and September 30, news agents distributing the *Eelanatham Batticaloa* newspaper were shot and killed, allegedly by members of the Karuna faction of the LTTE. On September 10, security forces blocked distribution of the newspaper into government controlled areas. *Eelanatham Batticaloa* was the only newspaper published in the LTTE-held area of Batticaloa Amparai.

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.

The Emergency Regulations enacted on August 18 give the president the power to restrict meetings, assemblies and processions.

The law states that rallies and demonstrations of a political nature cannot be held when a referendum is scheduled; however, the government generally granted permits for demonstrations, including those by opposition parties and minority groups.

On May 9, police and security forces fired into a crowd of rock-throwing protesters, killing 1 and injuring 15 in Batticaloa District. The estimated crowd of 500 was protesting the establishment of a new checkpoint.

On June 10, police broke up a political protest in Colombo using tear gas, water cannons, and baton charges when protesters blockaded the presidential residence.

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 LTTE did not allow freedom of association in the areas it controlled and reportedly used coercion to make persons attend its rallies.

c. Freedom of Religion.—The law accords Buddhism a foremost position, but 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. There is no state religion; however, the majority of citizens were followers of Buddhism, and this at times adversely affected the religious freedom of others.

Foreign clergy may 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.

During the year there were at least 15 confirmed reports of assault on Protestant and Catholic churches and church members by Buddhist mobs, often led by Buddhist monks. Village police were reluctant to pursue Buddhist monk agitators out of deference for their position. On at least three occasions, police charged Christian clergy with breaching the peace by holding religious services. There were numerous

reports during the year of police failing to act when given prior notice of church attacks, and to be slow to respond after they occurred.

On May 1, a mob that reportedly included a Buddhist monk attacked the Zion Prayer Center in Balapitiya, in Galle District. The pastor's wife and two other women were seriously injured in the attack, and furniture and the electric sound system were damaged. The pastor, who was away from the prayer center at the time of the attack, filed a complaint that was referred to the Mediation Board. At year's end no further action had been taken.

On June 5, police did not investigate initially when an Assembly of God pastor in Ambalangoda in Galle District complained of harassment by local villagers. On June 6, 30 villagers attacked the pastor, his brother, and an associate pastor, and of whom required hospitalization. When the pastor returned from the hospital, he found a Buddha statue placed on his vandalized property. While six of the attackers were arrested, all were free on bail at year's end awaiting trial.

On November 18, unknown assailants threw 2 grenades in the Akkaraipattu Jumah Mosque, killing 4 and injuring 18 during morning prayers. The LTTE denied allegations that it had detonated the grenades as punishment against Muslims for defying the LTTE sponsored election boycott.

Most Muslims expelled by the LTTE since 1990 remained displaced. During the year the LTTE continued its intimidation and extortion of Muslims in the east.

It appeared that attacks by the LTTE against Muslims were not religiously motivated but were instead part of an overall strategy to clear the north and east of persons not sympathetic to the cause of an independent Tamil state. The LTTE made some conciliatory statements to the Muslim community, but most Muslims viewed the statements with skepticism.

Societal Abuse and Discrimination.—There were instances of societal violence and harassment against members of the Christian community. There were no reported cases of anti-Semitism against the Jewish community, which numbered less than 100.

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

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The law grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to the country," and the government generally respected these rights in practice; however, during the year it restricted the movement of Tamils. The war with the LTTE prompted the government to impose more stringent checks on travelers from the north and the east and on movement in Colombo, particularly after dark. Tamils were still required to present special passes for fishing and transiting through high security zones in the north and the east. While Tamils were no longer required to obtain police passes to move around the country, they were frequently harassed at checkpoints.

Following the killing of Foreign Minister Kadirgamar on August 12, security forces closed the crossing between LTTE and government-controlled areas in the northeast for several days.

Limited access continued to certain areas near military bases and high security zones, defined as areas near military emplacements, camps, barracks, or checkpoints where civilians could not enter. High security zones extended up to a four-kilometer radius from the fences of most military camps. Some observers claimed the high security zones were excessive and unfairly affected Tamil agricultural lands, particularly in Jaffna, where the zones have displaced more than 30 thousand families and occupied over 60 square kilometers, almost 20 percent of the usable land in the peninsula. In August 2004 the government lessened restrictions at one site in Chavakachcheri and allowed farmers and their families to return to their land; nevertheless, the general public was still denied access to this area and all other high security zone areas.

Internally Displaced Persons (IDPs).—According to the UN High Commissioner for Refugees (UNHCR), as of July 13, 132 conflict IDPs had returned to their places of origin, leaving approximately 339 thousand IDPs displaced by the conflict. There were 268 camps for those displaced by ethnic conflict, and during the year 68,457 persons were in welfare centers, and 270,767 were staying with friends or relatives. According to various sources, approximately 50 thousand IDPs, primarily Tamils, were unable to resettle as a result of the high security zones. The UNHCR found sexual abuse to be endemic in IDP camps and engaged in a number of initiatives with local and international NGOs to address the problem. According to the UNHCR, 2,349 Tamil refugees had returned from India. The government began a program to relocate more than 200 landless IDP families to state lands in Vavuniya and Kilinochchi districts in the north.

Most of the 46 thousand Muslims expelled in 1990 by the LTTE remained displaced and lived in or near welfare centers. Although some Muslim IDP families returned home, the majority did not move and awaited a guarantee from the government for their safety in LTTE-controlled areas.

The LTTE occasionally disrupted the flow of persons exiting the Vanni region through the two established checkpoints. The LTTE regularly taxed civilians traveling through areas it controlled.

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. The government has not established a system for providing protection to refugees; however, the government cooperated with the UNHCR and other humanitarian organizations in assisting IDPs and refugees. There were no reports of *refoulement*, the forced return of persons to a country where they feared persecution.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, multiparty, free, and fair elections held on the basis of universal suffrage; however, recent elections were marred by violence and some irregularities.

Elections and Political Participation.—The president, elected in November for a 6-year term, holds executive power, while the 225-member parliament, elected in April 2004, exercises legislative power.

The EUEOM described the November presidential election as generally satisfactory. The LTTE-enforced boycott of the polls and 7 grenade attacks in the north and east marred the election, however, and allowed less than 1 percent of voters in the north to exercise their right to vote. Unlike previous years, there were no deaths or serious injuries on election day, although the inspector general of police refused to release any data on election violence. The EUEOM cited state media bias and misuse of public resources for campaigning as occurring during the campaign.

The EUEOM described the 2004 general election as having been conducted in a democratic matter, with the exception of irregularities in the north and east, where widespread voter impersonation and multiple voting occurred. Several sources cited the LTTE as responsible for the irregularities. The EUEOM reported that more than 2 thousand incidents of election violence occurred, resulting in the deaths of 5 persons and the serious injuring of another 15. Voter turnout was 75 percent. Unlike in previous elections, the government allowed persons living in LTTE controlled areas to vote in cluster polling booths in government-controlled areas.

In October 2004 parliament passed a bill requiring all citizens to present a national identity card to vote. The government provided for a 1-year grace period because many Tamils living in the north, east, and the hill country did not have identity cards. The government allowed local poll supervisors to accept other forms of identification during this period.

There were 11 women in the 225-member parliament, 3 women in the cabinet, and 2 women on the Supreme Court. During the year a woman, Chandrika Kumaratunga, finished serving her second term as president. There were 34 Tamils and 24 Muslims in the 225-member parliament. There was no provision for or allocation of a set number or percentage of political party positions for women or minorities.

The LTTE refused to allow elections in areas under its control, and opposed campaigning by certain Tamil parties in the east during the November presidential elections.

Government Corruption and Transparency.—There was corruption in the executive and legislative branches. Transparency International (TI) identified nepotism and cronyism in the appointment of officials to government and state-owned institutions. The tendering and procurement process for government contracts was not transparent, leading to frequent allegations of corruption by the losing bidders. TI also noted that corruption was a problem in high value tender processes and establishing business operations.

From December 2004 until March 31, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) did not operate because it lacked a chairman. At year's end CIABOC had received 2,118 complaints, of which 981 were under investigation.

Some sources described the procedure for prosecution on corruption charges as difficult. On September 20, the government indicted former Deputy Defense Minister Anuruddha Ratwatte on charges of bribery.

There was no law providing for public access to government information.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Many domestic human rights NGOs, including the Consortium of Humanitarian Agencies; Home for Human Rights; the University Teachers for Human Rights, Jaffna; the Civil Rights Movement; and the Law and Society Trust monitored civil and political liberties. There were no restrictive regulations governing the activities of local and foreign NGOs, although the government officially required NGOs to include action plans and detailed descriptions of funding sources as part of the initial registration process, and every five years thereafter. Some NGO workers viewed the renewal requirement as an attempt by the government to exert greater control over the NGO sector after previous human rights groups' criticisms. Most NGOs complied with these reporting requirements.

The UN Special Rapporteur on Extrajudicial and Arbitrary Killings Dr. Philip Alston, Amnesty International's Secretary General Irene Khan, and the UN Special Rapporteur on Religious Freedom Asma Jahangir all visited the country during the year. Alston investigated the rise in extrajudicial killings, Khan criticized both parties for their infringements on human rights, and Jahangir expressed concern over attacks on places of worship. All visitors noted that in most cases, perpetrators were not brought to justice.

In August 2004 the government submitted a report to the United Nations Committee Against Torture (UNCAT) as a part of its reporting responsibilities under the Convention Against Torture. On November 10, the UNCAT reviewed the 2004 report and met members of the country's delegation for questions and clarifications on the 2004 report. The UNCAT published its conclusions and seven recommendations on December 17 and called on the country to submit the next periodic report according to schedule.

The government continued to allow the ICRC unrestricted access to detention facilities (see sections 1.c. and 1.d.). The ICRC provided international humanitarian law training materials and training to the security forces. During the year the ICRC also delivered health education programs in LTTE-controlled areas in the north and east (see section 1.g.).

The HRC by statute has wide powers and resources and may not be called as a witness in any court of law or be sued for matters relating to its official duties. However, according to many human rights organizations, the HRC often was not as effective as it should have been. The HRC did not have enough staff or resources to process its caseload of 16,305 pending complaints, and it did not enjoy the full cooperation of the government. The HRC had a tribunal-like approach to investigations and declined to undertake preliminary inquiries in the manner of a criminal investigator.

In June 2004 the HRC established a torture prevention monitoring unit in its headquarters and three of its regional offices to implement its zero-tolerance torture policy. HRC provided extra training for officers assigned to this unit and established a policy of quick investigation for torture complaints. To ensure its sustainability, HRC urged the treasury to cover costs of the Torture Prevention Monitoring Unit.

During the year there were instances of interference with HRC investigations. On October 12, the HRC main office was ransacked by unknown parties. At year's end police continued their investigation. In June 2004 HRC officers attempting to investigate a complaint of torture were harassed and intimidated by police officers at the Paiyagala police station in Kalutara District. In September 2004 a police officer assaulted HRC officer Ruwan Chandrasekera, who was investigating a complaint at the Jaffna police station (see sections 1.c. and 1.d.). The case, scheduled to be heard in November, was delayed indefinitely because Chandrasekera relocated to Canada.

In July 2004 the LTTE set up the Northeast Secretariat of Human Rights (NESOHR). Since its inception, NESOHR received more than 400 complaints ranging from land disputes to child recruitment complaints. Some groups questioned NESOHR's credibility because of its close ties to the LTTE. On November 13, NESOHR arranged the return of 26 child soldiers to coordinate with former Amnesty International president Ian Martin's visit to Kilinochchi.

Section 5. 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 domestic violence, but it was not strictly enforced. Sexual assault, rape, and spousal abuse continued to be serious and pervasive problems. Amendments to the law introduced in 1995 specifically addressed sexual abuse and exploitation and modified rape laws to create a more equitable burden of proof and to make punishments more stringent. Marital rape is considered an offense only in cases of spouses living under judicial separation. While the law may 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 received 1,314 complaints of violent crimes against women.

At year's end a trial was ongoing in the case of two policemen who in 2003 attempted to rape a Mrs. Selvarajan in Uyilankulam in Mannar district.

According to the Bureau for the Protection of Children and Women, there were 1,081 reported incidents of rape. The bureau indicated that 692 of the victims were below the age of 18. During the year 36 police stations received rape victim assistance training. Services to assist victims of rape and domestic violence such as crisis centers, legal aid, and counseling were generally limited.

Prostitution was illegal but occurred during the year. Some members of the police and security forces reportedly participated in or condoned prostitution. Although laws against procuring and trafficking were strengthened in 1995, trafficking in women for the purpose of forced labor occurred (see section 5, Trafficking).

Sexual harassment is a criminal offense carrying a maximum sentence of five years in prison; however, these laws were not enforced.

The law provides for equal employment opportunities in the public sector; however, women had no legal protection against discrimination in the private sector, where they sometimes were paid less than men for equal work, often experienced difficulty in rising to supervisory positions, and faced sexual harassment. Even though women constituted approximately half of the formal workforce, according to the Asian Development Bank (ADB), the quality of employment available to women was less than that available to men, as the demand for female labor was mainly for casual and low-paid, low-skill jobs in the formal and informal sectors.

In December 2004 UNCHR launched a media campaign to promote awareness of sexual and gender-based violence, including sexual harassment in the workplace, violence against women and children, and domestic abuse.

Women have equal rights under national, civil, and criminal law; however, questions related to family law, including divorce, child custody, and inheritance were adjudicated by the customary law of each ethnic or religious group. The minimum age of marriage for women is 18 years, and there was no provision for marriage at an earlier age with parental consent except in the case of Muslims, who may follow their customary marriage practices and marry at 15. Women were denied equal rights to land in government-assisted settlements, as the law does not institutionalize the rights of female heirs. Different religious and ethnic practices often resulted in uneven treatment of women, including discrimination.

Children.—The law requires children between the ages of 5 and 14 to attend school, and the government demonstrated its commitment to children through extensive systems of public education and medical care. Approximately 85 percent of children under the age of 16 attended school. Education was free through the university level. Health care, including immunization, was also free.

Many NGOs attributed the problem of exploitation of children to the lack of law enforcement rather than inadequate legislation. Many law enforcement resources were diverted to the conflict with the LTTE, although the police's Bureau for the Protection of Children and Women conducted investigations into crimes against children and women. Following the December 2004 tsunami, the National Child Protection Agency (NCPA) launched a successful awareness campaign to protect orphaned or displaced children from pedophiles.

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 broadens the definition of child abuse to include the involvement of children in war. The NCPA included representatives from the education, medical, police, and legal professions and reported directly to the president. During the year the Bureau for the Protection of Children and Women received 2,070 complaints of violent crimes against children.

The government pushed for greater international cooperation to bring those guilty of pedophilia to justice. The penalties for pedophilia range from 5 to 20 years' imprisonment and an unspecified fine. During the year 19 cases of pedophilia were brought to court and were pending at year's end.

Child prostitution was a problem in coastal resort areas. The government estimated that there were more than two thousand child prostitutes in the country, but private groups claimed that the number was as high as six thousand. Citizens committed much of the child sexual abuse in the form of child prostitution; however, some child prostitutes were boys who catered to foreign tourists. Some of these children were forced into prostitution (see section 5, Trafficking). 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 conducted awareness-raising programs for at-risk children in resort regions prone to sex tourism.

The LTTE used child soldiers and recruited children, sometimes forcibly, for use in battlefield support functions and in combat. LTTE recruits, some as young as eight years of age, escaped LTTE camps and surrendered to the military or the SLMM. Credible reports indicated that in July the LTTE increased recruiting efforts, particularly in the east (see section 1.g.). Credible sources reported that there were more than 543 cases of forcible child recruitment by the LTTE. These sources also reported that more than 1,339 children remained in LTTE custody at year's end. Several sources reported that the LTTE continued to obstruct the 2003 action plan between UNICEF and the LTTE on the demobilization and rehabilitation of child soldiers. Several sources reported that the LTTE used intimidation or bribes to facilitate recruitment. Some senior LTTE officials claimed that all child soldiers were volunteers.

Trafficking in Persons.—The law prohibits trafficking in persons; however, the country was a point of origin and destination for trafficked persons, primarily women and children trafficked for the purposes of forced labor and sexual exploitation. The country was a source for trafficked women. Some women were trafficked under the guise of legitimate employment to Lebanon, Saudi Arabia, Kuwait, the United Arab Emirates, Bahrain, and Qatar for the purpose of coerced labor and sexual exploitation. A smaller number of Thai, Chinese, and Ethiopian women were trafficked to the country for commercial sexual exploitation. Women and children were trafficked internally for domestic and sexual servitude. Boys and girls were victims of commercial sexual exploitation by pedophiles in the sex tourism industry.

The legal penalties for trafficking in women include imprisonment for 2 to 20 years and a fine. For trafficking in children, the law allows imprisonment of 5 to 20 years and a fine.

Government programs to monitor immigration with computer programs designed to identify suspected traffickers or sex tourists continued, as did a cyberwatch project to monitor suspicious Internet chat rooms.

During the year authorities arrested six airport employees for providing false travel documents or otherwise assisting in trafficking.

Internal trafficking in male children was also a problem, especially from areas bordering the northern and eastern provinces. Protecting Environment and Children Everywhere, a domestic NGO, estimated that there were 6 thousand male children between the ages of 8 and 15 years engaged as sex workers at beach and mountain resorts. Some of these children were forced into prostitution by their parents or by organized crime.

The NCPA has adopted, with International Labor Organization (ILO) assistance, a comprehensive national plan to combat the trafficking of children for exploitative employment. With the NCPA, police began work on children's issues, including trafficking in children.

The government established rehabilitation camps for trafficking victims and initiated awareness campaigns to educate women about trafficking; however, most of the campaigns, with support from the Bureau of Foreign Employment, were conducted by local and international NGOs.

Persons with Disabilities.—The law forbids discrimination against any person on the grounds of disability; however, there were instances of discrimination against the disabled in the areas of employment, education, and provision of state services. The law does not mandate access to buildings for persons with disabilities, and such facilities were rare. 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 also provided some financial support to NGOs that assisted persons with disabilities. Such assistance included 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 selected job placement officers to help the estimated 200 hundred thousand work-eligible persons with disabili-

ities find jobs. Despite these efforts, persons with disabilities faced difficulties because of negative attitudes and societal discrimination.

National/Racial/Ethnic Minorities.—There were approximately one million Tamils of Indian origin, the so-called hill, tea estate, or Indian Tamils, whose ancestors originally were brought to the country in the 19th century to work on plantations. In the past approximately 300 thousand of these persons did not qualify for citizenship in any country and faced discrimination, especially in the allocation of government funds for education. In 2003 parliament passed a bill granting full citizenship to more than 460 thousand tea estate Tamils. In August 2004 UNHCR began awareness campaigns to alert Tamils to the new legislation and by year's end had registered approximately 276 thousand persons, while 192 thousand estate Tamils remain unregistered.

Both local and hill Tamils maintained that they suffered longstanding systematic discrimination in university education, government employment, and in other matters controlled by the government. According to HRC, Tamils also experienced discrimination in housing.

Indigenous People.—The country's indigenous people, known as Veddas, numbered fewer than one thousand. Some preferred to maintain their traditional way of life and are protected by the law. There are no legal restrictions on their participation in the political or economic life of the nation. Some Veddas complained that they were being pushed off their land in protected forest areas.

Other Societal Abuses and Discrimination.—The law criminalizes homosexual activity between men and between women, but the law was not enforced. NGOs working on lesbian, gay, bisexual, and transgender issues did not register with the government. During the year human rights organizations reported that police harassed, extorted money or sexual favors from, and assaulted gay men in Colombo and other areas.

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 6. Worker Rights

a. The Right of Association.—The government respected the legal right of workers to establish unions, and the country has a strong trade union tradition. Any seven workers may form a union, adopt a charter, elect leaders, and publicize their views, but in practice such rights were subject to administrative delays. Nonetheless, approximately 20 percent of the 7-million-person work force nationwide and more than 70 percent of the plantation work force was unionized. In total, there were more than one million union members. Approximately 15 to 20 percent of the non-agricultural work force 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.

Most large unions were affiliated with political parties and played a prominent role in the political process, although major unions in the public sector were politically independent. In 2003 the Ministry of Employment and Labor registered 168 new unions and canceled the registration of 64 others, bringing the total number of functioning unions to 1,604 by the end of 2003. The Ministry of Employment and Labor is authorized by law to cancel the registration of any union that does not submit an annual report, the only grounds for the cancellation of registration.

Employers found guilty of discrimination must reinstate workers fired for union activities but may transfer them to different locations. Antiunion discrimination is a punishable offense liable for a fine of \$200 (20 thousand SLR).

b. The Right to Organize and Bargain Collectively.—The law provides for the right to collective bargaining; however, very few companies practiced it. At year's end, approximately 50 companies belonging to the Employers' Federation of Ceylon (EFC), the leading employers' organization, had collective agreements. All collective agreements must be registered at the Department of Labor. Data on the number of registered collective agreements were not available. More than half of EFC's 435-strong membership was unionized.

All workers, other than police, armed forces, prison service, and those in essential services, have the right to strike. By law workers may lodge complaints with the commissioner of labor, a labor tribunal, or the Supreme Court to protect their rights. The president retains the power to designate any industry as an essential service.

The law prohibits retribution against strikers in nonessential sectors; however, in practice employees were sometimes fired for striking.

Under the law, workers in the Export Processing Zones (EPZs) have the same rights to join unions as other workers. While the unionization rate in the rest of the country was approximately 20 percent, the rate within the EPZs was under 10 percent. Fewer than 10 unions were active in EPZs, partially because of severe restrictions on access by union organizers to the zones. Trade unions were formally recognized in 8 out of approximately 200 factories in the EPZs. In a few other factories, management had begun discussions with the unions. There was only one operating collective agreement in the EPZs during the year. Labor representatives alleged that the government's Board of Investment (BOI), which managed the EPZs, including setting wages and working conditions in the EPZs, discouraged union activity. The short-term nature of employment and the relatively young workforce in the EPZs made it difficult to organize.

On March 23, Special Task Force (STF) personnel allegedly threatened Anura Kirithi Rajah, a union organizer for a garment factory in the EPZ. The union president at the same factory reported also receiving a death threat at the same time. On April 11, the BOI intervened to settle the labor dispute.

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.

According to the International Confederation of Free Trade Unions, during the year there were some violations of trade union rights in the EPZs. The nonrecognition of trade unions became a contentious issue, in part because of obligations under various multilateral and bilateral trade agreements.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or bonded labor; however, there were reports that such practices occurred. The law does not prohibit forced or compulsory labor by children specifically, but government officials interpreted it as applying to persons of all ages (see section 6.d.). There were credible reports that some rural children were employed in debt bondage as domestic servants in urban households, and there were numerous reports that some of these children had been abused.

d. Prohibition of Child Labor and Minimum Age for Employment.—The minimum age for employment is 14, although the law permits the employment of younger children by their parents or guardians in limited family agriculture work or to engage in technical training. An amendment to the Employment of Women and Youth Act prohibits all other forms of family employment of children below 14. A child activity survey, carried out in 1998 and 1999 by the Department of Census and Statistics, found almost 11 thousand children between the ages of 5 and 14 working full time and another 15 thousand engaged in both economic activity and housekeeping. The survey found 450 thousand children employed by their families in seasonal agricultural work throughout the country.

Persons under age 18 may not be employed in any public enterprise in which life or limb is endangered. There were no reports that children were employed in the EPZs, the garment industry, or any other export industry, although children sometimes were employed during harvest periods in the plantation sectors and in non-plantation agriculture. Sources indicated many thousands of children were employed in domestic service, although this situation was not regulated or documented. Many child domestics reportedly were subjected to physical, sexual, and emotional abuse. Regular employment of children also occurred in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops. In 2003 International Labor Organization/International Program for Elimination of Child Labor sponsored a rapid assessment survey on domestic child labor in 5 districts found child domestic workers (under 18 years) in roughly 2 percent of households, but the prevalence of child domestics was much larger.

The NCPA is 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 are responsible for the enforcement of child labor laws. The Bureau of Child Protection reported 16 complaints of child employment during the year. Penalties for employing minors were increased from approximately \$10 (SLR 1 thousand) and/or 6 months' imprisonment to \$100 (SLR 10 thousand) and/or 12 months' imprisonment.

Although the law prohibits forced or compulsory labor by persons of any age, some rural children reportedly have served in debt bondage (see sections 5 and 6.c.).

The LTTE used children as young as age 13 years in battle, and children as young as 8 often were recruited forcibly (see section 5).

A UNICEF-supported action plan sought to restore normalcy to former LTTE child soldiers through release and reintegration. Under this program UNICEF sup-

ported the establishment of a transit center in Kilinochchi for child recruits released by the LTTE.

As required by ILO Convention 182, the government identified a list of 50 occupations considered to be the worst forms of child labor (for children under 18 years). Laws proscribing these worst forms of child labor have not been formulated.

e. Acceptable Conditions of Work.—While there is no universal national minimum wage, 38 wage boards established by the Ministry of Labor set minimum wages and working conditions by sector and industry. These minimum wages did not provide a decent standard of living for a worker and family. In late 2003 the Ministry of Labor began increasing the minimum wages of all wage boards by a minimum of 15 percent; however, at year's end this process had not been completed for garment and hotel worker wages.

The law prohibits most full-time workers from regularly working more than 45 hours per week (a 5½-day workweek). New regulations limited the maximum overtime hours to 15 per week. Labor organizers were concerned that the new legislation did not include a provision for overtime with the consent of the worker. Several laws protect the safety and health of industrial workers, but the Ministry of Labor's small staff of inspectors was 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 the rights and feared that they would lose their jobs if they removed themselves from the work situation.